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VIRGINIA REGISTER

OF REGULATIONS



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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.

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Symbol Key

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DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-03-2.6152. Definition of Home Ownership or Contiguous Property - State Plan for Medical Assistance.

Statutory Authority: § 32.1-324 C of the Code of Virginia.

Public Comment Period: Public comments may be submitted from May 11, 1987, through June 9, 1987.

Summary:

These regulations amend the State Plan for Medical Assistance and are being proposed in response to changes in the Code of Virginia brought about by Senate Bill 372. This bill revised in part, the criteria for determining eligibility for Medicaid applicants by redefining the home and contiguous property for ADC-eligible applicants to include the house and lot of principal residence and all contiguous property regardless of value. For all other applicants, a home is defined as the house and lot of principal residence and all contiguous property not exceeding \$5,000 in value. The Senate bill also provided for those cases in which the \$5,000 contiguous property requirement is more restrictive than that in effect on January 1, 1972, by permitting the homesite exemption in such cases to include the house, lot and contiguous property essential to the operation of the home regardless of value.

VR 460-03-2.6152. Definition of Home Ownership or Contiguous Property - State Plan for Medical Assistance.

§ 200. Aged, blind, and disabled (SSI-related) individuals.

§ 201. Real property.

§ 201.1. Home ownership. Ownership of a dwelling occupied by the applicant as his home does not affect eligibility. A home means the house and lot. In rural areas, one acre is regarded as the equivalent of a lot. Additional land contiguous to the homesite, valued at an amount up to a maximum of \$5,000 is also exempt as the homesite. The additional value of land contiguous to the home site is not exempted unless it meets the income producing requirements in section 201.2 below, or the exceptions to ownership of other real property precluding eligibility (below).

§ 201.1. Home Ownership.

Ownership of a dwelling occupied by the applicant as his home does not affect eligibility. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence and all contiguous property as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value.

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 a minimum size for a building lot whichever is less. In localities where no minimum building lot requirement exists, a lot shall be a measure of land designated on a plat or survey or one acre whichever is less.

Contiguous property essential to the operation of the home means:

1. Land used for the regular production of any food or goods for the household's consumption only, including:
 - a. Vegetable gardens;
 - b. Pasture land which supports livestock raised for milk or meat, and land used to raise chickens, pigs, etc. (The amount of land necessary to support such animals is established by the local extension service; however, in no case shall more land be allowed than that actually being used to support the livestock.)
 - c. Outbuildings used to process or store any of the above;
2. Driveways which connect the homesite to public roadways;
3. Land necessary to the homesite to meet local zoning requirements (e.g., building sites, mobile home sites, road frontage, distance from road, etc.);

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4. Land necessary for compliance with state or local health requirements (e.g., distance between home and septic tank, distance between septic tanks, etc.);

5. Water supply for the household;

6. Existing burial plots;

7. Outbuildings used in connection with the dwelling, such as garages or tool sheds.

All of the above facts shall be fully evaluated and documented in the case record before the home site determination is made.

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION (STATE BOARD OF)

Title of Regulation: VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

Statutory Authority: §§ 37.1-10 and 37.1-179.1 of the Code of Virginia

Public Hearing Dates:

July 21, 1987 - 10 a.m.

July 28, 1987 - 10 a.m.

Written comments will be received through July 31, 1987.

(See Calendar of Events section for additional information)

Summary:

Under the current definitions in Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia the Department of Mental Health and Mental Retardation is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The term "outpatient facility" includes any publicly or privately owned institution, establishment or other entity by whatever name or designation which provides a variety of treatment interventions which individually are less than three consecutive hours duration for mentally ill, mentally retarded or substance abusing persons in a nonresidential setting. Outpatient facilities usually provide these interventions through a multidisciplinary staff that is employed by the outpatient facility. In contrast, similar interventions provided by individual practitioners of the same healing art or of the same behavioral science profession, or provided by 'private practice' organizations organized under pertinent provisions of the Code of Virginia by groups of practitioners of the same healing art or of the same behavioral science profession, are not subject to licensure by the Department of Mental Health and Mental Retardation

and are, therefore, excluded from the term "outpatient facility". For further clarification see the definitions of 'outpatient facility' and 'professional service' in § 1.1 of the regulations.

These regulations articulate the minimum requirements for licensure of outpatient facilities in order to protect the health and safety of mentally ill, mentally retarded and substance abusing clients in outpatient facilities and to assure that they receive services that are appropriate to meet their identified needs.

The regulations are comprised of the following issues which have impact on outpatient facilities subject to licensure:

Organization and administration, personnel, physical environment, programs and services, disaster or emergency plans, and special requirements for outpatient methadone treatment facilities.

These are new regulations that will partially replace the current Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities and will be subject to licensure for the first time outpatient facilities serving mentally ill or emotionally disturbed persons.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

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:

"Advocate" means a person or persons appointed by the commissioner after consultation with the State Human Rights Director and the local human rights committee who exercise the duties set forth in Part III of the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health and Mental Retardation.

"Allegation" means an accusation that a facility is operating without a license.

"Ambulatory detoxification services" means a program/service provided in an outpatient facility to people under the influence of intoxicants that provides a safe place to withdraw from such intoxicants, but the term "ambulatory detoxification services" does not include detoxification and treatment with the controlled drug methadone (see Part VII). Trained staff are present to monitor withdrawal. People who experience medical

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complications are sent to a hospital emergency room. Clients may be referred to an outpatient substance abuse facility or to an intermediate care facility when appropriate.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license.

"Behavior management" means planned and systematic use of various techniques selected according to group and individual differences of the residents and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior, and to reduce or to eliminate undesirable behavior. (The term is consistently generic and is not confined to those techniques which derive specifically from behavior therapy, operant conditioning, etc.)

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

"Case record" or "record" means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the client.

"Child" means any person legally defined as a child under state law.

"Client" means mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants.

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

"Complaint" means an accusation against a licensed facility regarding an alleged violation of regulations or law.

"Corporal punishment" means the inflicting of pain or discomfort to the body through actions such as but not limited to striking or hitting with any part of the body or with an implement; or through pinching, pulling or shaking; or through any similar action which normally inflicts pain or discomfort.

"Day off" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive day off immediately following the first shall consist of not less than 24 additional consecutive hours.

"Day support program" means any publicly or privately operated facility, institution or other entity which provides day support services to mentally ill or mentally retarded persons or to persons addicted to the intemperate use of

narcotic drugs, alcohol or other stimulants but does not include:

1. Sheltered workshops;
2. Supported or transitional employment programs;
3. Alternative day support arrangements;
4. Educational programs;
5. Recreational programs; or
6. Outpatient facilities.

"Day support services" means a planned program of treatment or training interventions of more than three consecutive hours duration for mentally ill or mentally retarded persons or for persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting and focus on the treatment of pathological conditions or on the training or strengthening of client abilities to deal with everyday life. "Day support services" includes such services as day treatment/partial hospitalization, psychosocial rehabilitation, work activity and adult development day programs. The term "day support services" does not include such services as sheltered employment, supported or transitional employment, alternative day support arrangements, education or recreational services.

"Day treatment/partial hospitalization" means a treatment program that includes the major diagnostic, medical, psychiatric, psychosocial, prevocational and educational treatment modalities designed for patients with serious mental disorders or substance abuse problems who require coordinated, intensive, comprehensive and multidisciplinary treatment of pathological conditions not provided in outpatient facility settings.

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

"Detoxification facility" means a residential facility or a portion thereof that is licensed according to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia as a nonhospital medical detoxification service, a sobering-up shelter service or a social detoxification service, but does not include a hospital based medical detoxification service or an inpatient substance abuse facility as defined in these regulations.

"Drug addict" means a person who: (i) through the use of habit forming drugs or other drugs enumerated in the Virginia Drug Control Act (§ 54-524.1 et seq.) of the Code of Virginia, as controlled drugs, has become dangerous to the public or himself; or (ii) because of such drug use, is medically determined to be in need of medical or

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psychiatric care, treatment, rehabilitation or counseling.

"Facility" or "institution" means any facility not operated by an agency of the federal government by whatever name or designation which provides care or treatment for mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. Such institution or facility shall include a hospital as defined in § 32.1-123 of the Code of Virginia, outpatient clinic, special school, halfway house, home and any other similar or related facility.

"Hospital" or "hospitals" when not modified by the words "state" or "private" means both state hospitals and private hospitals devoted to or with facilities for the care and treatment of mentally ill, mentally retarded or substance abusing persons.

"Hospital-based medical detoxification service" means a program/service which offers medical treatment to persons suffering from alcohol or other drug intoxication. This service is provided in a hospital under the direction of a physician and hospital staff and is designed to monitor and control medical complications and other disorders which may be associated with withdrawal.

"Human research" means any medical or psychological investigation designed to develop or contribute to general knowledge and which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects and which departs from the application of those established and accepted methods appropriate to meet the subjects' needs but does not include:

1. The conduct of biological studies exclusively utilizing tissue of fluids after their removal or withdrawal from human subject in the course of standard medical practice;
2. Epidemiological investigations; or
3. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated.

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of each client. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out the plan.

"Inpatient substance abuse facility" means an organization established to provide effective intervention for substance abuse by providing medical detoxification and by treating the medical and psychiatric complications of substance abuse through an organized medical and

professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

"Intermediate care substance abuse facility" means an organization established to provide a continuous, structured residential program of services including assessment, counseling, vocational and social rehabilitation for four or more substance abusing persons. This type of facility provides full-time residential treatment services and is exemplified by therapeutic communities and residential treatment centers.

"Intrusive aversive therapy" means a formal behavior modification technique designed to reduce or eliminate severely maladaptive, violent or self-injurious behavior through the application of noxious or painful stimuli contingent upon the exhibition of such behavior. The term shall not include actions defined in these regulations as corporal punishment, nor does it include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia, or psychotropic medications which are not used for purposes of intrusive aversive therapy.

"Licensee" means the person, corporation, partnership, association, or public agency to whom a license is issued and who is legally responsible for compliance with the regulations and statutory requirements relating to the facility.

"Local human rights committee" means a committee of at least five members broadly representative of professional and consumer groups appointed by the State Human Rights Committee 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 applicable human rights regulations. Except where otherwise provided, the term "local human rights committee" shall mean this body or any subcommittee thereof.

"Mechanical restraint" means the application of machinery or tools as a means of physically restraining or controlling a resident's behavior, such as handcuffs, straitjackets or shackles but not including bed straps, bed rails, slings and other devices employed to support or protect physically incapacitated residents.

"Mental retardation" means substantial subaverage general intellectual functioning which originates during the development period and is associated with impairment in adaptive behavior.

"Nonhospital medical detoxification service" means a program/service which provides a medically supervised withdrawal from alcohol and/or other drug intoxication in a nonhospital setting. Twenty-four hour nursing care and the services of on-call physicians are available. Services include medical screening and evaluation, basic laboratory

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analysis, physical exams and chemotherapy, as ordered by a physician. Medical referrals are made as necessary. Case management including referral to further residential or outpatient treatment is available.

"On duty" means that period of time during which a staff person is responsible for the care and supervision of one or more residents.

"Outpatient facility" means any publicly or privately owned institution, establishment or other entity by whatever name or designation which provides a variety of treatment interventions of less than three consecutive hours duration for mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting to individuals, groups and families and include but are not limited to emergency services, crisis intervention, counseling, psychotherapy, behavior management, chemotherapy, ambulatory detoxification, and methadone detoxification and maintenance. The term outpatient facility does not include the treatment rooms or offices used to provide the services of:

1. Professional associations organized by three or more practitioners of the same healing art or by three or more psychologists under the provisions of Chapter 25 (§ 54-873 et seq.) of Title 54 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service, provided that the associates and any employees of the association who render professional services on behalf of the association are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice psychology;

2. Professional corporations organized by one or more practitioners of the same healing art or by practitioners of the same behavioral science profession under the provisions of Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service, provided that the shareholders and any employees of the professional corporation who render professional services on behalf of the professional corporation are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;

3. General partnerships formed under the provisions of Chapter 1 (§ 50-1 et seq.) of Title 50 of the Code of Virginia by two or more individual practitioners of the same healing art or of the same behavioral science profession for the sole and specific purpose of rendering the same and specific professional service, provided that the partners and any employees of the

general partnership who render professional services on behalf of the general partnership are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;

4. Individual practitioners of the healing arts licensed under the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of the Code of Virginia.

5. Individual practitioners of the behavioral science professions licensed under the provisions of Chapter 28 (§ 54-923 et seq.) of Title 54 of the Code of Virginia;

6. Psychiatric hospitals licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, provided that such treatment rooms or offices are situated on the same premises as the psychiatric hospital so licensed; or

7. Day support programs licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

"Outpatient substance abuse facility" means an establishment which provides in a nonresidential setting a variety of services to substance abusing persons and their families including assessment, direct substance abuse treatment services which the facility's organization can itself provide, and indirect treatment services which the facility's organization secures through referral, on both a scheduled and unscheduled basis.

"Patient" means a person voluntarily or involuntarily admitted to or receiving services from a facility licensed according to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

"Physical restraint" means any act by the facility or staff which exercises the use of physical confrontation or force, or both, with residents as a method or technique of managing harmful client behavior.

"Premises" means the tract(s) of land on which any part of a residential facility is located and any buildings on such tract(s) of land.

"Private hospital" means a hospital or similar institution which is not operated by the department and is duly licensed pursuant to the provisions of § 37.1-179 et seq. of the Code of Virginia and includes psychiatric wards of general hospitals.

"Private institution" means an establishment which is not operated by the department and which is licensed pursuant to the provisions of under § 37.1-179 et seq. of the Code of Virginia.

"Professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such services or use of such

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title the obtaining of a license, certification or other legal authorization from a state examining board issued under the provisions of Title 54 of the Code of Virginia, except that the phrase 'rendering the same and specific professional service' as used in these regulations in the exclusions from the term "outpatient facility" shall not be interpreted to prohibit such excluded professional associations, professional corporations, and general partnerships from employing such person to assist in rendering the sole and specific professional service for which such entities are organized such as: (i) professional nurses and licensed practical nurses licensed pursuant to the provisions of Chapter 13.1 (§ 54-367.1 et seq.) of Title 54 of the Code of Virginia; (ii) physical therapists licensed pursuant to the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of the Code of Virginia; or (iii) clerks, secretaries, bookkeepers, technicians and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional service to the public for which a license or other legal authorization is required.

"Program" means a combination of procedures or activities carried out in order to meet a specific goal or objective.

"Punishment" means the use of an aversive event or the removal of a positive event following a behavior which decreases, or is intended to decrease the probability of that behavior. This includes a pain, loss, or penalty inflicted for a fault or mistake.

"Regional advocate" means a person or persons who perform the functions set forth in Part IV of the Rules and Regulations Assuring the Rights of Clients in Community Programs and who are appointed by the commissioner after consultation with the State Human Rights Director.

"Rehabilitation" means assistance provided for a disabled individual to return to his fullest potential in occupational, social and psychological life by reducing the residual effects of his handicapping condition.

"Resident" means a person admitted to a residential facility for supervision, care, training or treatment on a 24 hour basis. For the purpose of these regulations, the words "resident" and "client" are used interchangeably.

"Residential facility" means any publicly or privately owned facility or institution by whatever name or designation which provides 24 hour domiciliary or residential care or treatment for four or more mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes

and any other similar or related facility except:

1. A residential facility operated by an agency of the federal government;
2. A private family home;
3. A hospital as defined in § 32.1-123 of the Code of Virginia serving mentally ill persons;
4. A hospital-based medical detoxification service; an inpatient substance abuse facility; an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts; or a screening and referral facility (substance abuse) as these facilities are defined in these regulations;
5. A facility or portion of a facility licensed by the State Board of Social Services;
6. A facility or portion of a facility licensed by the State Board of Health;
7. A facility or portion of a facility which provides domiciliary or residential care to children; or
8. A residential respite care/emergency shelter facility.

"Residential respite care/emergency shelter facility" means a facility that is specifically approved to provide periodic residential respite care/emergency shelter services for four or more clients but does not include:

1. A residential facility as defined in these regulations;
2. A residential facility operated by an agency of the federal government;
3. A private family home;
4. A hospital as defined in § 32.1-123 of the Code of Virginia serving mentally ill persons;
5. A hospital-based medical detoxification service; an inpatient substance abuse facility; an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts; or a screening and referral facility (substance abuse) as these facilities are defined in these regulations;
6. A facility or portion of a facility licensed by the State Board of Social Services;
7. A facility or portion of a facility licensed by the State Board of Health; or
8. A facility or portion of a facility which provides domiciliary or residential care to children.

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"Residential respite care/emergency shelter services" means the provision of periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency shelter or to provide temporary relief to parents/guardians from responsibility for the direct care of the client.

"Right" means that to which one has a natural, legal or moral claim.

"Sanitize" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypochlorite. The amount of bleach used may be in accordance with manufacturer's recommendation on the package.

"Screening and referral facility (substance abuse)" means an organization which provides services in a nonresidential setting to determine the type and extent of the substance abuse problem of the individual seeking help and which is conducted by persons competent to make such judgments and to direct, guide and link the recipient to other appropriate services and follow-up on services rendered.

"Seclusion" means confining a client in a room with the door secured in any manner that will prohibit the client from opening it.

"Severe weather" means extreme environmental or climatic conditions which pose a threat to the health, safety or welfare of residents.

"Sobering-up shelter service" means a residential program/service offered to people under the influence of intoxicants that provides a safe place to "sleep it off." Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room. Outpatient or intermediate care facility referral may be available.

"Social detoxification service" means a residential program/service which enables intoxicated persons to safely withdraw from the effects of intoxicants. Trained staff are present to monitor vital signs. People who experience medical complications are sent to a hospital emergency room. The program/service does not prescribe medication although clients may remain on prescription drugs while in the program if a physician authorizes the use of such drugs. Clients participating in social detoxification services receive supervised care during withdrawal followed by alcohol education, an opportunity to attend Alcoholics Anonymous meetings and individual and group counseling. Case management including referral to further residential or outpatient treatment is available.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"State hospital" means a hospital, training school or other such institution operated by the department for the

care and treatment of the mentally ill or mentally retarded.

"State human rights committee" 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 and the Rules and Regulations to Assure the Rights of Clients in Community Programs whose responsibility it shall be to perform the functions specified in those regulations. The term "state human rights committee" includes any subcommittee thereof.

"Substance abuse" means the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior.

"Substantial compliance" means a demonstration by a facility of full compliance with sufficient applicable regulations to clearly demonstrate that its program and physical plant can provide reasonably safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented.

"Time-out procedure" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a client from contact with people or other reinforcing stimuli through confining the client alone to a special time-out room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli. The time-out room shall not be locked nor the door secured in any manner that will prohibit the client from opening it.

"Transitional domiciliary substance abuse facility" means a facility which provides an organized program of domiciliary and supportive services, to four or more substance abusing persons unrelated by birth or marriage, and such services are administered according to the degree of transitional needs of service recipients. As distinguished from the intermediate care facility, this type of facility provides part-time residential treatment services as exemplified by halfway houses, quarterway houses, and other community residential facilities wherein the resident may leave the facility for part of the day for work, training, education or other community based services.

"Treatment" means any intervention which helps a person in the reduction or amelioration of disability, discomfort, symptoms, disorders or undesirable changes or conditions specific to physical, mental, behavioral or social functioning.

Article 2. Legal Base.

§ 1.2. Pursuant to § 37.1-179 et seq. of the Code of Virginia, no person shall establish, conduct, maintain or

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operate in this Commonwealth any facility or institution as defined in § 37.1-179 without first being duly licensed, except where such facility or institution is exempt from licensing.

Article 3. Facilities Subject to Licensure Under These Regulations.

§ 1.3. No person shall establish, conduct, maintain or operate in this Commonwealth any outpatient facility as defined in § 1.1 of these regulations without first being duly licensed, except where such outpatient facility is exempt from licensing.

Article 4. General Licensing Requirements.

§ 1.4. All outpatient facilities shall demonstrate an acceptable level of compliance with these regulations and other applicable statutory requirements and shall submit a plan of corrective action acceptable to the commissioner for remedying within a specified time any noncompliance with these regulations in order to be licensed to operate in this Commonwealth.

Article 5. Separate License Required.

§ 1.5. A separate license shall be required by facilities, establishments, or institutions maintained on separate premises even though they are operated under the same management. Separate buildings on the same grounds utilized for the same licensed program or activity shall not be required to have separate licenses. In the event alterations or additions increase the bed capacity of a facility, approval by the commissioner and a new or modified license shall be obtained before beginning operation of the additional space.

Article 6. Preapplication Consultation Services.

§ 1.6. Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the Licensure Office.

§ 1.7. Preapplication consultation may be designed to accomplish the following purposes:

1. To explain regulations and statutes;
2. To help the potential applicant explore the operational demands of a licensed facility;
3. To provide assistance in locating sources of information and technical assistance;
4. To refer the potential applicant to appropriate agencies such as the Department of Health, State Fire Marshal, local fire department and local building

officials; and

5. To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed.

Article 7. Application for License or License Renewal.

§ 1.8. A request for an original application shall be made in writing to the department.

§ 1.9. Application for license or license renewal to establish or maintain a facility shall be made in writing and submitted to the department upon the application forms secured from the department.

§ 1.10. Structural changes in a proposed or existing facility shall not be undertaken until notification has been made to the department and building plans for such structural changes have been approved by the department.

§ 1.11. Written zoning approval or a use permit where required by local jurisdictions shall be a prerequisite for an original license.

§ 1.12. A certificate of use and occupancy or approval from the authorized inspection agency for building code compliance, when applicable, shall be a prerequisite for original licensure.

§ 1.13. A check or money order for the license fee, payable to the Treasurer of Virginia, shall be forwarded to the department with the application. The board may fix a reasonable fee not in excess of \$50 for each license issued, and for any renewal thereof.

§ 1.14. Every facility shall be designated by a permanent and distinctive name and physical location which shall appear on the application for license or license renewal and which shall not be changed without first securing approval of the department.

§ 1.15. Corporations sponsoring outpatient facilities shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate outpatient facilities shall provide for such operations in their charters.

§ 1.16. Corporate applicants shall provide the name and address of the registered agent and a copy of the articles of incorporation.

§ 1.17. Ownership interest shall be made fully known to the department and in the case of corporations, all individuals or entities holding 5.0% or more of total ownership shall be identified by name and address.

§ 1.18. Application for license renewal should be submitted to the department at least 60 days prior to the expiration date.

Article 8. The License.

§ 1.19. The commissioner may issue a license to an outpatient facility making application for a license only after he is satisfied that: (i) the program outlined will contribute to the appropriate care, rehabilitation or treatment of clients; (ii) the applicant meets all applicable health, safety, sanitation, building and zoning requirements, either local or state; (iii) the applicant substantially complies with all provisions of these regulations; and (iv) the applicant has submitted a plan of corrective action acceptable to the commissioner for remedying with a specified time any noncompliance with these regulations.

§ 1.20. The commissioner may issue to a facility or institution that has fulfilled the conditions listed in § 1.19 a full license that is effective for any period not to exceed two years from its date of issuance, unless it is revoked or surrendered sooner.

§ 1.21. The commissioner at his discretion may issue a conditional license to operate a new facility or institution in order to permit the applicant to demonstrate compliance with all applicable requirements. Such a conditional license may be renewed, but such conditional license and any renewals thereof shall not exceed a period of six successive months, unless it is revoked or surrendered sooner.

§ 1.22. The commissioner may issue a provisional license to a facility or institution which has previously been fully licensed when such facility or institution is temporarily unable to comply with all licensing regulations. Such provisional license may be issued for any period not to exceed 90 days and shall not be renewed.

§ 1.23. The terms of any license issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or corporation or public agency to whom the license is issued; (iii) the physical location of the facility; (iv) the nature of the population served; (v) when appropriate the maximum number of persons to be accepted for care; (vi) the effective dates of the license; and (vii) other specifications prescribed within the context of the regulations.

§ 1.24. The license is not assignable or transferable and automatically expires when there is a change of ownership, sponsorship, or location, or when there is a substantial change in services or clientele which would alter the evaluation findings and terms under which the facility was licensed.

§ 1.25. The current license shall be posted at all times at the facility in a place conspicuous to the public.

§ 1.26. Each residential facility license issued by the commissioner shall specify the facility's bed capacity, i.e. the maximum number of persons that the facility is permitted to house. The number of beds allowed shall be

subject to approval by the department and shall so appear on the license issued by the commissioner.

§ 1.27. No facility shall operate more beds than the number for which it is licensed except in a catastrophic emergency when temporary permission may be granted by the commissioner.

§ 1.28. At no time shall clients be housed in areas which have not been approved by the department.

§ 1.29. A request for an increase in bed capacity shall be made in writing to the department.

§ 1.30. No increase in beds will be granted without written approval of the department subject to Certificate of Public Need review.

Article 9. Certificate of Public Need.

§ 1.31. Prior to the commencement of any proposed facility or project as defined in §§ 32.1-102.1 through 32.1-102.11 of the Code of Virginia, application shall be made to the State Health Commissioner for certification that there exists a public need for such a project in accordance with Chapter 4 (§ 32.1-102.1 et seq.) of Title 32.1 of the Code of Virginia. A copy of such certificate or exemption therefrom shall be submitted with the application.

Article 10. Inspection.

§ 1.32. Each applicant or licensee agrees as a condition of application or license to permit properly designated representatives of the department to enter upon and inspect any and all premises for which a license has either been applied or issued, including any books and records relating to the operation of the facility to verify information contained in the application, or to assure compliance with all laws, rules and regulations relating thereto, during all hours of operation of such facility and at any other reasonable hour.

Article 11. Early Compliance.

§ 1.33. A provisional or conditional license may be replaced with a full license when all of the following conditions exist:

1. The facility has complied with all regulations cited in noncompliance at the time of issuance of the provisional or conditional license well in advance of its expiration date and the facility is in substantial compliance with all other regulations;
2. Compliance has been verified by an on-site observation by a representative(s) of the department or by written evidence provided by the licensee; and

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3. All other terms of the license remain the same.

§ 1.34. A request to replace a provisional or conditional license and to issue a full license shall be made in writing to the department by the licensee.

§ 1.35. If the request is approved, the effective date of the new license will be the same as the beginning date of the provisional or conditional license.

Article 12.

Situation Requiring a New Application.

§ 1.36. A new application shall be filed in the following circumstances:

1. Change in ownership or sponsorship, or both;
2. Change of location; or
3. Substantial change in services provided or target population, or both.

Article 13.

Modification of License.

§ 1.37. The terms of a license may be modified during the term of the license with respect to the number of beds or other conditions which do not constitute substantial changes in the services or target population.

The licensee shall submit a written report to the department of any contemplated changes in operation which would affect either the terms of the license or the continuing eligibility for a license.

A determination will be made as to whether changes may be approved and the license modified accordingly or whether an application for a new license must be filed. The license will be notified in writing within 30 days as to whether the modification is approved or a new license is required.

Article 14.

Allowable Variance.

§ 1.38. The department has the sole authority to waive a regulation either temporarily or permanently when in its opinion:

1. Enforcement will create an undue hardship;
2. The regulation is not specifically required by statute or by the regulations of another government agency; and
3. Client care would not be adversely affected.

§ 1.39. Any request for an allowable variance shall be submitted in writing to the department.

§ 1.40. The denial of request for a variance is appealable through the normal appeals process when it leads to the denial or revocation of a license.

Article 15.

Investigation of Complaints and Allegations.

§ 1.41. The department is responsible for complete and prompt investigation of all complaints and allegations. Suspected criminal violations shall be reported to the appropriate law enforcement authority.

Article 16.

Revocation, Suspension or Refusal of License.

§ 1.42. The commissioner may revoke or suspend any license issued, or refuse issuance of a license, on any of the following grounds:

1. Violation of any provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, or any applicable and valid rule or regulation made pursuant to such provisions;
2. Permitting, aiding or abetting the commission of an illegal act in a facility or institution licensed under these regulations.
3. Conduct or practices detrimental to the welfare of any client of a facility or institution licensed under these regulations.

§ 1.43. Whenever the commissioner revokes, suspends or denies a license, the provisions of the Administrative Process Act (§ 9-6.14.1 et seq., Code of Virginia) shall apply.

§ 1.44. If a license is revoked or referred as herein provided, a new application for license may be considered by the commissioner when the conditions upon which such action was based have been corrected and satisfactory evidence of this fact has been furnished. In no event, however, may an applicant reapply for a license after the commissioner has refused or revoked a license until a period of six months from the effective date of such action has elapsed unless the commissioner in his sole discretion believes that there has been such a change in the conditions causing refusal of the prior application or revocation of the license as to justify the new application.

§ 1.45. When an appeal of the final decision of the commissioner to refuse to issue a license or to revoke or suspend a license is taken by the applicant pursuant to § 37.1-186 of the Code of Virginia, the six-month period shall be extended until a final decision has been rendered on appeal. A new license may then be granted after proper inspection has been made and all provisions of § 37.1-179 et seq. of the Code of Virginia, and applicable rules and regulations made thereunder have been complied with and recommendations to such effect have been made to the commissioner upon the basis of an inspection by any

authorized representative or agent of the department.

§ 1.46. Suspension of a license shall in all cases be for an indefinite time and the suspension may be lifted and rights under the license fully or partially restored at such time as the commissioner determines, upon the basis of such an inspection, that the rights of the licensee appear to so require and the interests of the public will not be jeopardized by resumption of operation.

Article 17. Suppression of Unlawful Operations.

§ 1.47. If any facility or institution is being operated in violation of the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, or of any applicable rules and regulations made under such provisions, the commissioner, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful operation and to restrain, correct or abate such violation or violations. Such action or proceeding shall be instituted in the circuit court of the county or city where such institution, hospital or home is located, and such court shall have jurisdiction to enjoin such unlawful operation or such violation or violations.

Article 18. Penalty.

§ 1.48. Any person violating any provision of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, or any applicable rule and regulation made under such provisions shall be guilty of a Class 3 misdemeanor, and each day, or part thereof, of continuation of any such violation shall constitute a separate offense.

Article 19. Reports.

§ 1.49. Each licensee shall file such reasonable reports and provide such reasonable information at such times as the department from time to time may require.

PART II. ORGANIZATION AND ADMINISTRATION.

Article 1. Governing Body.

§ 2.1. The outpatient facility shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

§ 2.2. The licensee shall clearly identify any subordinate board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee for the operation of the facility.

Article 2. Responsibilities of the Licensee.

§ 2.3. The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for the administrative direction of the facility.

§ 2.4. The licensee shall develop and implement written policies governing the licensee's relationship to the chief administrative officer that shall include, but shall not be limited to:

1. Annual evaluation of the performance of the chief administrative officer; and

2. Provision for the chief administrative officer to meet with the governing body or with the immediate supervisor to periodically review the services being provided, the personnel needs and fiscal management of the facility.

§ 2.5. The licensee shall review, develop and implement programs and administrative changes in accord with the defined purpose of the facility.

Article 3. Fiscal Responsibility.

§ 2.6. The facility shall have a documented plan of financing which gives evidence that there are sufficient funds to operate.

§ 2.7. A new facility shall, with the initial application, document funds or a line of credit sufficient to cover at least 90 days of operating expenses unless the facility is operated by a state or local government agency, board or commission.

§ 2.8. A new facility operated by a corporation, unincorporated organization or association, an individual or partnership shall submit with the initial application evidence of financial responsibility. This shall include:

1. A working budget showing projected revenue and expenses for the first year of operation; and

2. A balance sheet showing assets and liabilities.

§ 2.9. Facilities operated by state or local government agencies, boards, and commissions shall submit with the initial application and with each renewal application evidence of financial responsibility. This shall include a working budget showing appropriated revenue and projected expenses for the coming year.

§ 2.10. Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships shall submit with each renewal application evidence of financial responsibility. This shall include:

1. An operating statement showing revenue and expenses for the past operating year;

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2. A working budget showing projected revenue and expenses for the coming year;

3. A balance sheet showing assets and liabilities; and

4. A written assurance from the licensee that the documentation provided for in paragraphs one, two and three above presents a complete and accurate financial report reflecting the current fiscal condition of the facility.

§ 2.11. The facility shall provide additional evidence of financial responsibility as the licensing authority, at its discretion, may require.

Article 4. Internal Operating Procedures.

§ 2.12. There shall be evidence of a system of financial record keeping that is consistent with generally accepted accounting principles unless the facility is a state or local government operated program operating as required by the State Auditor of Public Accounts.

§ 2.13. There shall be a written policy, consistent with generally accepted accounting principles, for the collection and disbursement of funds unless the facility is a state or government operated program operating as required by the State Auditor of Public Accounts.

§ 2.14. There shall be a system of financial record keeping that shows a separation of the facility's accounts from all other records.

Article 5. Insurance.

§ 2.15. A facility shall maintain liability insurance covering the premises and the facility's operations, including professional liability.

§ 2.16. There shall be liability insurance on vehicles operated by the facility.

Article 6. Bonding.

§ 2.17. Those members of the governing body and staff who have been authorized responsibility for handling the funds of the facility shall be bonded.

Article 7. Relationship to the Licensing Authority.

§ 2.18. The facility shall submit or make available to the licensing authority such reports and information as the licensing authority may require to establish compliance with these regulations and with applicable statutes and appropriate statutes.

§ 2.19. The governing body or its official representative

shall notify the licensing authority within 10 working days of:

1. Any changes in administrative structure or newly hired chief administrative officer; and

2. Any pending changes in the program which will affect the types of services offered or the types of clients to be served.

§ 2.20. In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety, and well-being of the clients in care, the facility shall notify the licensing authority of the conditions at the facility and the status of the clients in care as soon as possible.

Article 8. Participation of Clients in Research.

§ 2.21. The facility shall establish and implement written policies and procedures regarding the participation of clients as subjects in research that are consistent with Chapter 13 (§ 37.1-234 et seq.) of Title 37.1 of the Code of Virginia unless the facility has established and implemented a written policy explicitly prohibiting the participation of clients as subjects of human research as defined by the above statute.

PART III. PERSONNEL.

Article 1. Health Information.

§ 3.1. Health information required by these regulations shall be maintained for all staff members.

Article 2. Initial Tuberculosis Examination and Report.

§ 3.2. Within 30 days of employment each staff member shall obtain an evaluation indicating the absence of tuberculosis in a communicable form except that an evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed by the Commonwealth of Virginia that requires such screening, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening.

§ 3.3. Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the type(s) of test(s) used and the test result(s).

§ 3.4. The statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

§ 3.5. The statement shall be filed in the individual's personnel record.

Article 3. Subsequent Evaluations for Tuberculosis.

§ 3.6. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms of four weeks duration or longer shall, within 30 days of exposure/development, receive an evaluation in accord with Part III, Article 2 of these regulations.

Article 4. Physical or Mental Health of Personnel.

§ 3.7. At the request of the licensee/administrator of the facility or the licensing authority a report of examination by a licensed physician shall be obtained when there are indications that the care of clients may be jeopardized by the physical, mental, or emotional health of a specific individual.

§ 3.8. Any individual who, upon examination by a licensed physician or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of clients in care or which would prevent the performance of duties:

1. Shall immediately be removed from contact with clients and food service to clients; and
2. Shall not be allowed contact with clients or food served to clients until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement by the physician.

Article 5. Job Responsibilities.

§ 3.9. The chief administrative officer shall be responsible to the governing body for:

1. The overall administration of the program;
2. Implementation of all policies;
3. Maintenance of the physical plant; and
4. Fiscal management of the outpatient facility.

§ 3.10. The program director shall be responsible for the development and implementation of the programs and services offered by the outpatient facility.

§ 3.11. When a facility is licensed/certified to care for 13 or more clients, a full time, qualified staff member shall fulfill the duties of the program director.

§ 3.12. If not provided by external resources, counseling and social services shall be provided by a staff member(s) qualified to provide such services.

§ 3.13. Sufficient qualified relief staff shall be employed to maintain required staff/client ratios during:

1. Regularly scheduled time off of permanent staff; and

2. Unscheduled absences of permanent staff.

§ 3.14. Services of a licensed physician shall be available for treatment of clients as needed.

§ 3.15. Any nurse employed shall hold a current nursing license issued by the Commonwealth of Virginia.

Article 6. Staff Qualifications.

§ 3.16. Any person who assumes or is designated to assume the responsibilities of a staff position or any combination of staff positions employed at the facility shall meet the qualifications of that position(s) and shall fully comply with all applicable regulations for that position.

§ 3.17. When services or consultation are obtained on a contract basis they shall be provided by professionally qualified personnel.

Article 7. Personnel Records.

§ 3.18. A separate up-to-date personnel record shall be maintained for each staff member. The record shall include:

1. A complete employment application form or other written material providing:
 - a. Identifying information (name, address, phone number, social security number, and any names previously utilized);
 - b. Educational history; and
 - c. Employment history.
2. Written references or notations of oral references;
3. Reports of required health examinations; and
4. Annual performance evaluations.

§ 3.19. Each personnel record shall be retained in its entirety for two years after employment ceases.

Article 8. Personnel Policies.

§ 3.20. The licensee shall have approved written personnel policies.

§ 3.21. Written personnel policies shall be readily accessible to each staff member.

§ 3.22. Each staff member shall demonstrate a working

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knowledge of those policies and procedures that are applicable to his specific staff position.

Article 9. Job Descriptions.

§ 3.23. For each staff position there shall be a written job description which shall as a minimum include:

1. The job title;
2. The duties and responsibilities of the incumbent;
3. The job title of the immediate supervisor; and
4. The minimum knowledge, skills and abilities required for entry level performance of the job.

§ 3.24. A copy of the job description shall be given to each person assigned to that position at the time of employment or assignment.

Article 10. Volunteers and Students Receiving Professional Training.

§ 3.25. If a facility uses volunteers or students receiving professional training it shall develop written policies governing their selection and use. A facility that does not use volunteers shall have a written policy stating that volunteers will not be utilized.

§ 3.26. The facility shall not be dependent upon the use of volunteers/students to ensure provision of basic services.

§ 3.27. The selection of volunteers/students and their orientation, training, scheduling, supervision and evaluation shall be the sole responsibility of designated staff members.

§ 3.28. Responsibilities of volunteers/students shall be clearly defined.

§ 3.29. All volunteers/students shall have qualifications appropriate to the services they render based on experience or orientation.

§ 3.30. Volunteers/students shall be subject to all regulations governing confidential treatment of personal information.

§ 3.31. Volunteers/students shall be informed regarding liability and protection of clients' issues.

Article 11. Staff Supervision and Evaluation.

§ 3.32. The facility shall implement written policies and procedures to provide staff supervision and evaluation that include provisions for:

1. Regularly scheduled supervision;
2. Evaluations which are based on job descriptions and performance criteria;
3. Annual written performance evaluations;
4. Discussions of staff evaluations with staff being evaluated;
5. Delineating strengths as well as weaknesses of the staff, and recommendations for improved performance;
6. Evaluation reports which are signed by both the employee and the supervisor who did the evaluation; and
7. Access by employees to their personnel files.

Article 12. Staff Development.

§ 3.33. New employees, relief staff, volunteers and students shall within one calendar month of employment be given orientation and training regarding the objectives and philosophy of the facility, practices of confidentiality, other policies and procedures that are applicable to their specific positions, and their specific duties and responsibilities.

§ 3.34. Each new staff member shall receive the orientation and training required by § 3.33 prior to assuming sole responsibility for supervision of one or more clients.

§ 3.35. Provision shall be made for staff development activities, designed to update staff on items in § 3.33 and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be limited to, supervision and formal training.

§ 3.36. Participation of staff, volunteers and students in orientation, training and staff development activities shall be documented.

Article 13. Staffing Patterns.

§ 3.37. No person shall be scheduled to work more than six consecutive days between rest days.

§ 3.38. Direct care staff who have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3.39. Direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in

any four-week period. This shall be in addition to vacation time and holidays.

§ 3.40. Direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall not be on duty more than 16 consecutive hours except in emergencies when relief staff are not available.

§ 3.41. Facilities other than those serving mentally retarded persons shall have clinical staffing patterns that are adequate and appropriate in relationship to:

1. The needs of the client population being served;
2. The hours and days the facility operates;
3. Assessment, therapeutic, and follow-up functions;
4. Intensity and kinds of treatment;
5. Nature of client disabilities; and
6. Carrying out appropriate patient care evaluations, peer review, and utilization review procedures.

§ 3.42. For those facilities serving mentally retarded adults, the following staff ratios shall be maintained:

1. For programs serving profoundly retarded adults there shall be one staff member for each four clients present during each shift. Regardless of the number of clients present, at least one staff member shall be present at all times.
2. For programs serving severely, moderately and mildly retarded adults there shall be at least one staff member for each 12 clients. If no clients are at home, a staff member shall be on call. If at least one client is home during the day shift, at least one staff member shall be present unless planned for and indicated in the client's Individualized Service Plan.

PART IV. PHYSICAL ENVIRONMENT.

Article 1. Buildings, Inspections and Building Plans.

§ 4.1. All buildings and installed equipment shall be inspected and approved by the local building official when required. This approval shall be documented by a Certificate of Use and Occupancy indicating that the building is classified for its proposed licensed purpose.

§ 4.2. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by:

1. Local fire authorities with respect to fire safety and fire hazards, except in state operated facilities;

2. State fire officials, where applicable; and

3. State or local health authorities, whose inspection and approval shall include:

- a. General sanitation;
- b. The sewage disposal system;
- c. The water supply;
- d. Food service operation; and
- e. Swimming pools.

§ 4.3. When a facility is not subject to the Virginia Public Building Safety Regulations or the Uniform Statewide Building Code, residents who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be served on ground level and provided with a planned means of effective egress for use in emergencies.

Article 2. Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications to Existing Buildings.

§ 4.4. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be submitted to and approved by the licensing authority and the following authorities, where applicable, before construction begins:

1. Local building officials;
2. Local fire departments;
3. Local or state health departments; and
4. Office of the State Fire Marshal.

§ 4.5. Documentation of the approvals required by § 4.3 shall be submitted to the licensing authority.

§ 4.6. All electrical, carpentry and plumbing work at the facility shall be performed under a proper permit from the building official if such a permit is required by the Uniform Statewide Building Code. Such work shall be inspected and approved by the building official, if required, and such work shall be performed by a licensed contractor.

Article 3. Heating Systems, Ventilation and Cooling Systems.

§ 4.7. Heat shall be evenly distributed in all rooms occupied by clients such that a temperature no less than 65°F is maintained, unless otherwise mandated by state or federal authorities.

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§ 4.8. Natural or mechanical ventilation to the outside shall be provided in all rooms used by clients.

§ 4.9. All doors and windows capable of being used for ventilation shall be fully screened unless screening particular doors and windows is explicitly prohibited in writing by state or local fire authorities and those doors and windows are not used for ventilation.

§ 4.10. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by clients when the temperature in those rooms exceeds 85°F.

§ 4.11. Heating systems annually, prior to the heating season, shall be inspected, cleaned and have their filters changed by a contractor.

Article 4. Lighting.

§ 4.12. Artificial lighting shall be by electricity.

§ 4.13. All areas within buildings shall be lighted for safety.

§ 4.14. Lighting shall be sufficient for the activities being performed in a specific area.

§ 4.15. Operable flashlights or battery lanterns shall be available for each staff member on the premises between dusk and dawn for use in emergencies.

§ 4.16. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

Article 5. Plumbing and Toilet Facilities.

§ 4.17. All plumbing shall be maintained in good operating condition.

§ 4.18. There shall be an adequate supply of hot and cold running water available at all times.

§ 4.19. Precautions shall be taken to prevent scalding from running water. In all newly constructed facilities mixing faucets shall be installed.

§ 4.20. There shall be at least one toilet and one hand basin for every four clients in care.

Article 6. Privacy for Clients.

§ 4.21. Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy.

Article 7. Buildings and Grounds.

§ 4.22. Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas shall be safe and properly maintained.

Article 8. Equipment and Furnishings.

§ 4.23. All furnishings and equipment shall be safe and suitable to the characteristics of the clients and the services provided.

§ 4.24. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which clients participate in programs.

§ 4.25. Meals, if provided, shall be served in areas equipped with sturdy tables and benches or chairs.

§ 4.26. Dead bolt locks shall not be used on doors.

§ 4.27. The use of portable space heaters is prohibited unless specifically approved in writing by the local fire authority.

Article 9. Housekeeping and Maintenance.

§ 4.28. The interior and exterior of all buildings, including required locks and mechanical devices, shall be maintained in good repair.

§ 4.29. The interior and exterior of all buildings and grounds shall be kept clean and free of rubbish.

§ 4.30. All buildings shall be well-ventilated and free of stale, musty and foul odors.

§ 4.31. Buildings shall be kept free of flies, roaches, rats and other vermin.

§ 4.32. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

§ 4.33. All furnishings, linens and indoor and outdoor equipment shall be kept in good repair.

§ 4.34. Space shall be provided for safe storage of items such as first aid equipment, household supplies, recreational equipment, and other materials.

§ 4.35. Lead based paint shall not be used on any surfaces and items with which clients and staff come in contact.

Article 10. Support Functions.

§ 4.36. Facilities shall provide for support functions including, but not limited to, maintenance of buildings and grounds, and housekeeping.

§ 4.37. Clients shall not be solely responsible for support

functions and shall not be assigned duties beyond their physical or mental capacity to perform.

Article 11.
Firearms and Weapons.

§ 4.38. No firearms, pellet guns, air rifles or other weapons shall be permitted on the premises of the facility.

PART V.
PROGRAMS AND SERVICES.

Article 1.
Program Description and Annual Program Review.

§ 5.1. Each licensee shall develop a written comprehensive program description for the facility that includes the following elements:

1. A mission statement identifying the philosophy and global intentions of the facility;
2. A clear description of the characteristics and the needs of the population to be served; and
3. A clear identification of the program components and services to be provided.

§ 5.2. Each licensee shall develop and implement a written evaluation system that is designed to provide specific utilization data and information regarding the extent to which program goals and objectives have been achieved.

§ 5.3. Each licensee shall review, at least annually, the program of the facility in the light of the population served and the objectives of the facility.

§ 5.4. Based on the written results of the annual program review, the licensee shall review, develop and implement indicated program and administrative changes in accord with the defined mission of the facility.

Article 2.
Admission Criteria.

§ 5.5. Each facility shall have written criteria for admission that shall be made available to all parties when admission is being considered. Such criteria shall include:

1. A description of the population to be served;
2. A description of the types of services offered;
3. Criteria for acceptance into the program; and
4. Intake and admission procedures including necessary referral documentation.

§ 5.6. The facility shall accept and serve only those clients whose needs are compatible with those services provided

through the facility.

§ 5.7. A facility shall not knowingly accept into care a client whose health or behavior shall present a clear and present danger to the client or others served by the facility.

Article 3.
Documented Diagnostic Study of the Client.

§ 5.8. Acceptance for care shall be based on an evaluation of a documented diagnostic study of the client, except that this requirement shall not apply to admissions for emergency services, diagnostic services, ambulatory detoxification services, or to admissions for detoxification and treatment services using the controlled drug methadone. (See Part VII.)

§ 5.9. At the time of an admission to the outpatient facility for services the client's record shall contain all of the elements of the documented diagnostic study of the client.

§ 5.10. The documented diagnostic study of the client shall include all of the following elements:

1. A formal request or written application for admission;
2. Identifying information documented on a face sheet (see § 5.11);
3. A physical examination as specified in § 5.55 or documentation of an assessment of the client's current physical condition using a protocol or screening procedure developed pursuant to the requirements of § 5.14;
4. Medical history (see § 5.12);
5. A statement concerning the client's recent vocational and educational history and skills;
6. Results of any psychiatric or psychological evaluations of the client, if applicable;
7. Social and developmental summary (see § 5.13);
8. Reason for referral; and
9. Rationale for acceptance.

5.11. Identifying information on a face sheet shall include:

1. Full name of client;
2. Last known residence;
3. Date of birth;
4. Birthplace;

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5. Sex of client;
6. Racial and national background;
7. Social security number;
8. Religious preference;
9. Custody status indicating name and address of legal guardian, if any;
10. Names, addresses and telephone numbers for emergency contacts, spouse, parents, guardians or representatives of the referring agency, as applicable;
11. Criminal justice status, if any; and
12. Date of admission.

§ 5.12. A medical history shall include:

1. Serious illnesses and chronic conditions of the client's parents and siblings, if known;
2. Past serious illnesses, infectious diseases, serious injuries and hospitalizations;
3. Psychological, psychiatric and neurological examinations, if applicable;
4. Substance abuse history including onset of use, types of substances, frequency of use, quantity of use, method of administration, if applicable.
5. Name, address and telephone number of client's physician(s), when information is available; and
6. Name, address and telephone number of client's dentist(s), when information is available.

§ 5.13. A social and developmental summary shall include:

1. Description of family structure and relationships;
2. Previous service history;
3. Current behavioral functioning including strengths, talents, and problems;
4. Documentation of need for services; and
5. Names, ages and sex of siblings.

Article 4.
Protocol for Assessing the Current
Physical Condition of Clients.

§ 5.14. Each outpatient facility shall in consultation with a licensed physician develop and implement written policies and procedures for assessing the current physical condition of clients who are being considered for admission to an

outpatient facility and who are unable to present a report of a physical examination by or under the direction of a licensed physician performed no earlier than 90 days prior to admission to the program. Such policies and procedures shall include but shall not be limited to:

1. A protocol or screening instrument to be used by clinical staff to gather and document data about the client derived from interviewing and visual observation that may be used to assess the current physical condition of prospective clients;
2. Operational criteria, involving data derived from a physical examination as specified in § 5.55 or from the administration of the protocol or screening instrument developed pursuant to the requirements of subdivision 1 above, for referral of clients to a physician for medical assessment and treatment;
3. Operational criteria, involving data derived from a physical examination as specified in § 5.55 or from the administration of the protocol or screening instrument developed pursuant to the requirements of subdivision 1 above and embodied in a written agreement with a local hospital(s) emergency room, for referral and transportation of clients for emergency medical services when needed.

Article 5.
Procedures for Admissions for Outpatient Ambulatory
Detoxification Services.

§ 5.15. Each outpatient facility offering ambulatory detoxification services other than outpatient detoxification and treatment services using the controlled drug methadone (see Part VII) shall in consultation with a licensed physician develop and implement written policies and procedures for intake screening including but not limited to:

1. Requirements for documenting identifying information on clients;
2. Requirements for assessing and documenting the medical history and initial physical condition of clients including as a minimum: (i) measurement of blood alcohol content; (ii) respiration rate; (iii) pulse rate; (iv) blood pressure; and (v) body temperature; and
3. Operational criteria for admission for ambulatory detoxification services and for referral to other resources including operational criteria embodied in a written agreement with a local hospital(s) emergency room for referral and transportation of clients for emergency medical services when needed.

Article 6.
Work and Employment.

§ 5.16. Any assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the

age, health, ability, and service plan of the client.

§ 5.17. The facility shall ensure that any client employed inside or outside the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with all applicable laws governing labor and employment.

§ 5.18. Any money earned through employment of a client shall accrue to the sole benefit of that client.

Article 7. Grievance Procedures.

§ 5.19. The facility shall have written grievance procedures which shall be made known to clients upon admission.

Article 8. Human Rights.

§ 5.20. The facility shall comply with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article 9. Treatment Planning Policies and Procedures.

§ 5.21. Each licensee shall develop and implement written policies and procedures to be followed by staff in treatment planning, implementation and review.

Article 10. Treatment Plan.

§ 5.22. A written individualized treatment plan, based on information derived from the documented diagnostic study of the client and other assessments made by the facility, shall be developed and implemented for each client within 30 days of admission and placed in the client's master file, except that the requirements of the regulations in Part V Articles 11 through 13 shall not apply to admissions for emergency services, diagnostic services, ambulatory detoxification and treatment using the controlled drug methadone (see Part VII).

§ 5.23. The following parties shall participate, unless clearly inappropriate, in developing the initial individualized treatment plan:

1. The client;
2. The client's family or legally authorized representative;
3. The referring agency; and
4. Facility staff.

§ 5.24. The degree of participation, or lack thereof, of each of the parties listed in § 5.23 in developing the treatment plan shall be documented in the client's record.

§ 5.25. The individualized treatment plan shall include, but not necessarily be limited to, the following:

1. A statement of the client's problems and current level of functioning including strengths and weaknesses, and corresponding treatment/training needs;
2. A statement of goals and a sequence of measurable objectives to meet the above identified needs;
3. A statement of services to be rendered and frequency of services to accomplish the above goals and objectives;
4. A statement identifying the individual(s) or organization(s) that will provide the services specified in the statement of services;
5. A statement of the timetable for the accomplishment of the client's goals and objectives; and
6. The estimated length of the client's need for services.

Article 11. Quarterly Progress Reports.

§ 5.26. There shall be a review and update of the client's individualized treatment plan by the staff and the assigned case coordinator. Such reviews and updates shall occur at a frequency appropriate to the rate and intensity of services provided, but no less than quarterly.

§ 5.27. Written progress summary reports completed quarterly shall be included in each client's record and shall include, but not be limited to:

1. Reports of significant incidents, both positive and negative;
2. Changes in client's social and family situation;
3. Summary of the client's emotional and physical development during the previous three months including a listing of any specialized services and any ongoing medications prescribed;
4. Documentation of the appropriateness of the client's involvement in the program;
5. Update of the appropriateness of the treatment goals;
6. Update of the client's involvement in all necessary services;
7. Update of contract with parent(s) or guardian (if applicable and legally permissible);

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8. The evaluation of client progress and client outcomes; and

9. Tentative discharge plans.

Article 12. Annual Treatment Plan Review.

§ 5.28. At least annually the following parties shall participate, unless clearly inappropriate, in formally reviewing and rewriting the treatment plan based on the client's current level of functioning and needs:

1. The client;
2. The client's family or legally authorized representative;
3. The referring agency; and
4. Facility staff.

§ 5.29. The degrees of participation, or lack thereof, of each of the parties listed in § 5.28 in reviewing and rewriting the treatment plan shall be documented in the client's record.

Article 13. Ambulatory Detoxification Services.

§ 5.30. Each outpatient facility offering ambulatory detoxification services other than outpatient detoxification and treatment with the controlled drug methadone (see Part VII) shall in consultation with a licensed physician develop and implement written policies and procedures for detoxification services including but not limited to:

1. Monitoring of the physical and mental condition of clients including monitoring and recording of the client's vital signs (respiration rate, pulse rate, blood pressure and body temperature) every hour during the three hours after admission;
2. Therapeutic services directly related to and necessary for the detoxification process including but not limited to:
 - a. Ongoing medical services if provided as an integral part of the detoxification programs;
 - b. Referral to emergency medical services when appropriate;
 - c. Activities designed to motivate clients to continue treatment after detoxification;
 - d. Opportunities to participate in or be introduced to Alcoholics Anonymous and Narcotics Anonymous;
 - e. Individual and group counseling/support if provided as a part of the detoxification program;

and

f. Case management including referral and follow-up for further residential or outpatient treatment.

Article 14. Client Records.

§ 5.31. A separate case record on each client shall be maintained and shall include all correspondence relating to the care of that client.

§5.32. Each case record shall be kept up to date and in a uniform manner through an ongoing case review. This case review shall include a determination of whether client records contain all the service documentation required by the program and applicable regulations and standards.

§ 5.33. Case records shall be maintained in such manner as to be accessible to staff for use in working with the client.

Article 15. Confidentiality of Client Records.

§ 5.34. The facility shall make information available only to those legally authorized to have access to that information under federal and state laws.

§ 5.35. There shall be written policy and procedures to protect the confidentiality of records which govern acquiring information, access, duplication, and dissemination of any portion of the records. The policy shall specify what information is available to the client.

§ 5.36. Written policies and procedures related to abuse and neglect shall be distributed to all staff members. These shall include:

1. Acceptable methods for behavior management of clients;
2. Procedures for handling accusations against staff; and
3. Procedures for promptly referring suspected cases of abuse and neglect to the local protective service unit and for cooperating with the unit during any investigation.

§ 5.37. The client's record shall include:

1. Date and time the suspected abuse or neglect occurred;
2. Description of the incident;
3. Action taken as a result of the incident; and
4. Name of the person to whom the report was made

at the local department.

Article 17. Storage of Confidential Records.

§ 5.38. Records shall be kept in areas which are accessible only to authorized staff.

§ 5.39. When not in use, active records shall be stored in a locked metal file cabinet or other locked metal compartment.

§ 5.40. When not in use, closed records shall be kept in a locked compartment or in a locked room.

Article 18. Disposition of Client Records.

§ 5.41. Client records shall be kept in their entirety for a minimum of three years after the date of the discharge unless otherwise specified by state or federal requirements.

§ 5.42. Permanent information shall be kept on each client even after the disposition of the client's records unless otherwise specified by state or federal requirements. Such information shall include:

1. Client's name;
2. Date and place of client's birth;
3. Dates of admission and discharge; and
4. Name and address of legal guardian, if any.

§ 5.43. Each facility shall have a written policy to provide for the disposition of records in the event the facility ceases operation.

Article 19. Service Coordination.

§ 5.44. Each facility shall develop and implement written policies and procedures for case coordination that shall provide for the assignment of a case coordinator to each client.

§ 5.45. The duties of the case coordinator shall include:

1. Serving as the liaison between the program and the client's family or legally authorized representative;
2. Providing ongoing assessment of the client's general needs through the use of program reports and evaluation information provided by each service;
3. Ensuring systematic and inclusive individualized treatment plans, when required, through monitoring the continuity and range of services delivered;

4. Developing and reviewing the specific individualized treatment plans with additions and deletions in service delivery on a quarterly basis;

5. Providing coordination, linkage, and referral to all direct and generic services within the program and in the community;

6. Providing coordination and referral at the time of discharge;

7. Identifying the individual or agency responsible for follow-up and aftercare; and

8. Documenting follow-up when appropriate.

Article 20. Discharge and Case Closure.

§ 5.46. Each facility shall develop and implement written policies and procedures regarding discharge and case closure including:

1. Written criteria for a client's completion of the program; and
2. Conditions under which a client may be discharged before completion of the program.

§ 5.47. No later than 30 days after discharge a comprehensive discharge summary shall be placed in the client's record and it shall contain:

1. Client's admission date;
2. Client's discharge date;
3. Name of client's case coordinator, if assigned;
4. Information concerning currently prescribed medication including when and why it was prescribed, the dosage, and whether it is to be continued;
5. Summary of the client's progress since admission;
6. Reasons for discharge; and
7. Follow-up and referral plans and requirements.

Article 21. Health Care Procedures.

§ 5.48. Facilities shall have written policies and procedures for the prompt provision of emergency medical or dental services.

§ 5.49. A well stocked first aid kit, approved by the local rescue squad or Red Cross, shall be maintained and readily accessible for minor injuries and medical emergencies.

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§ 5.50. At all times that staff are required to be present there shall be at least one staff member on the premises who has received within the past three years a basic certificate in standard first aid (Multimedia, Personal Safety, or Standard First Aid Modular) issued by the American Red Cross or other recognized authority except that this requirement does not apply during those hours when a licensed nurse or certified emergency medical technician (EMT) is present at the facility.

§ 5.51. At all times that staff are required to be present there shall be at least one staff member on the premises who has received a current certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority.

§ 5.52. Within 90 days after employment each staff member of an outpatient facility who provides direct care to clients receiving ambulatory detoxification services other than detoxification and treatment with the controlled substance methadone (see Part VII) shall successfully complete a training course for social setting detoxification workers approved by the department.

§ 5.53. The following written information concerning each client shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician or dentist to be notified;
2. Name, address, and telephone number of relative or other person to be notified;
3. Medical insurance company name and policy or Medicaid number;
4. Information concerning:
 - a. Use of medication,
 - b. Medication allergies,
 - c. Any history of substance abuse, and
 - d. Significant medical problems;
5. Written consent authorizing the facility to transport the client to receive emergency medical or dental services; and
6. Written permission for emergency medical or dental care.

Article 22.

Physical Examinations for Clients.

§ 5.54. Each client accepted for services in outpatient facility programs, other than those clients accepted for emergency services, diagnostic services, ambulatory detoxification services, or for detoxification and treatment

with the controlled drug methadone, shall have an assessment of his current physical condition using a protocol or screening procedure developed pursuant to the requirements of § 5.14 or a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the program, except that the report of a physical examination performed within the preceding 12 months by a state hospital or facility licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia shall be acceptable.

§ 5.55. Each physical examination report shall include:

1. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;
2. Allergies, chronic conditions, and handicaps, if any;
3. Restriction of physical activities, if any;
4. Recommendations for further treatment, immunizations, and other examinations indicated;
5. The date of the physical examination; and
6. The signature of a licensed physician, the physician's designee, or an official of a local health department.

Article 23.

Use of Tobacco Products and Other Substances.

§ 5.56. No client under age 16 shall be permitted to purchase, possess or use tobacco products.

§ 5.57. Each facility shall have a written policy addressing the use of alcoholic beverages.

§ 5.58. Each facility shall have a written policy addressing the possession or use of illegal drugs.

Article 24.

Medication.

§ 5.59. As part of the data collected at admission to the program a drug use profile shall be developed for each client which includes:

1. History of prescription and nonprescription drugs being taken at the time of admission and for the previous six months.
2. Drug allergies, idiosyncratic or adverse drug reactions.
3. Ineffective medication therapy.

§ 5.60. There shall be written policies and procedures regarding the storage, delivery and administration of prescription and nonprescription medications used by

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clients. The policies and procedures shall include, require and provide for:

1. All medications shall be stored in a securely locked storage area and properly labeled.

2. In accordance with § 54-524.65 of the Code of Virginia, Virginia Drug Control Act, prescription medications shall only be administered by a physician, dentist, pharmacist, nurse or medication technician.

3. In accordance with § 54-524.65 of the Code of Virginia, Virginia Drug Control Act, prescription medications may be delivered by any designated employee for self-administration by the client under the supervision of the program director and only by the order of a physician. The designated employee must have successfully completed a medication assistance training program endorsed by the Virginia Board of Nursing.

4. Only those clients judged by the program staff to have any adequate level of functioning shall be allowed to self-administer nonprescription medication and this shall be documented in the client's record.

5. Controlled substances brought into the program by clients shall not be administered (including self-administration) unless they are identified and accompanied by a physician's or dentist's written order.

6. Procedures for documenting the administration of medication, medication errors, and drug reactions, obtaining emergency medical assistance, and disposal of medications.

7. Documentation of drugs prescribed following admission shall include:

- a. The date prescribed;
- b. Drug product name;
- c. Dosage;
- d. Strength;
- e. Route;
- f. Schedule;
- g. Dates medication discontinued or changed;
- h. Total supply of medication prescribed; and
- i. Signature of physician ordering medication.

8. Each program shall have written policies and procedures regarding the review of medication therapy which shall ensure and provide for a quarterly review

of the individual client's therapy plan by a physician (in conjunction with program staff when needed) shall include:

a. Documentation of the need for continued use of medication therapy including multiple drug usage, with evidence that treatment strategies other than medication therapy are under consideration.

b. Documentation of all contraindications and unusual effects for specific clients (where appropriate).

9. The attending physician shall be notified immediately of drug reactions or medication errors.

10. Procedures for documenting that clients or a legally authorized representative, or both, are informed of the potential side effects of prescribed medication.

11. All staff who supervise clients shall be informed of any known side effects of medication clients use and the symptoms of the effect.

Article 25.

Nutrition.

§ 5.61. If food is served, provision shall be made for each client to have nutritionally balanced meals.

§ 5.62. Menus shall be planned at least one week in advance.

§ 5.63. The menus, including any deviations, shall be kept on file for at least two months.

§ 5.64. The daily diet for clients shall be based on the generally accepted "Four Food Groups" system of nutrition planning. (The Virginia Polytechnic Institute and State University Extension Service is available for consultation.)

Article 26.

Behavior Management.

§ 5.65. Each facility shall implement written policies and procedures concerning behavior management that are directed toward maximizing the growth and development of the individual. These policies and procedures shall:

1. Emphasize positive approaches;
2. Define and list techniques that are used and available for use in the order of their relative degree of intrusiveness or restrictiveness;
3. Specify the staff members who may authorize the use of each technique;
4. Specify the processes for implementing such policies and procedures;

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5. Specify the mechanism for monitoring and controlling the use of behavior management techniques; and

6. Specify the methods for documenting their use.

§ 5.66. In the list required by subdivision 2 of § 5.65 of techniques that are used and available for use, intrusive aversive therapy if allowed shall be designated as the most intrusive technique.

§ 5.67. A written behavior management plan utilizing intrusive aversive therapy shall not be implemented with any client until the local human rights committee has determined:

1. That the client or his authorized representative has made an informed decision to undertake the proposed intrusive aversive therapy, and in the case of a minor who is capable of making an informed decision, that the concurrent consent of the parent has been obtained;

2. That the proposed intrusive aversive therapy has been recommended by a licensed clinical psychologist;

3. That the facility has satisfactorily demonstrated that the proposed intrusive aversive therapy plan does not involve a greater risk of physical or psychological injury or discomfort to the client than the behaviors that the plan is designed to modify;

4. That there is documentation that a representative sample of less intrusive behavior management procedures have been tried without success;

5. That more appropriate behaviors are being positively reinforced;

6. That a licensed physician has certified that in his opinion, the intrusive aversive procedure will not endanger the health of the client;

7. That the aversive treatment technique is measurable and can be uniformly applied;

8. That the aversive treatment program specifies the behavioral objective, the frequency of application of the aversive technique, the time limit for both application of the technique and the overall length of the program, and the collection of behavioral data to determine the program's effectiveness;

9. That the program is developed, implemented and monitored by staff professionally trained in behavior modification programming, and is witnessed by an approved professionally trained staff person;

§ 5.68. The local human rights committee having made the determinations required by § 5.67 shall then approve the proposed intrusive aversive therapy plan for a period not

to exceed 90 days. The plan shall be monitored through unannounced visits by a designated human rights advocate. In order for the plan to be continued, the local human rights committee shall again make the determinations required in § 5.67.

§ 5.69. The advocate or regional advocate shall be informed daily of all applications of a noxious stimulus in an approved intrusive aversive therapy program.

§ 5.70. The client subjected to intrusive aversive therapy procedures and the advocate or regional advocate shall be given an opportunity to obtain an independent clinical and local human rights committee review of the necessity and propriety of their use at any time.

Article 27.

Prohibited Means of Punishment.

§ 5.71. The following methods of punishment, whether spontaneous or a deliberate technique for effecting behavioral change or part of a behavior management program, shall be prohibited:

1. Deprivation of drinking water or nutritionally balanced snacks or meals;

2. Prohibition of contacts and visits with attorney, probation officer, or placing agency representative;

3. Prohibition of contacts and visits with family or legal guardian except where specifically permitted by other applicable regulations;

4. Delay or withholding of incoming or outgoing mail except where specifically permitted by other applicable regulations;

5. Any action which is humiliating, degrading, harsh, or abusive;

6. Corporal punishment as defined in these regulations;

7. Subjection to unclean and unsanitary living conditions;

8. Deprivation of opportunities for bathing and access to toilet facilities;

9. Deprivation of health care including counseling; and

10. Administration of laxatives, enemas, or emetics.

Article 28.

Chemical or Mechanical Restraints.

§ 5.72. The use of mechanical or chemical restraints is prohibited unless such use is specifically permitted by other applicable regulations.

Article 29.

Physical Restraints.

§ 5.73. A client may be physically restrained only when the client's uncontrolled behavior would result in harm to the client or others and when less restrictive interventions have failed.

§ 5.74. The use of physical restraint shall be only that which is minimally necessary to protect the client or others.

§ 5.75. If the use of physical restraint is unsuccessful in calming and moderating the client's behavior the client's physician, the rescue squad, the police or other emergency resource shall be contacted for assistance.

§ 5.76. Any application of physical restraint shall be fully documented in the client's record as to date, time, staff involved, circumstances, reasons for use of physical restraint, extent of physical restraint used, the results of physical restraint and the disposition of the incident requiring physical restraint.

Article 30. Seclusion.

§ 5.77. Seclusion of a client in a room with the door secured in any manner that will prohibit the client from opening it shall be prohibited unless carried out in compliance with applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article 31. Time-out Procedures.

§ 5.78. Time-out procedures may only be used at times and under conditions specified in the facility's disciplinary or behavior management policies.

§ 5.79. When a client is placed in a time-out room, the room shall not be locked nor the door secured in any manner that will prohibit the client from opening it.

§ 5.80. Any client in a time-out room shall be able to communicate with staff.

§ 5.81. The use of time-out procedures shall not be used for periods longer than 15 consecutive minutes.

§ 5.82. Written documentation shall be maintained verifying that each client placed in a time-out room has been checked by staff at least every 15 minutes.

§ 5.83. A client placed in a time-out room shall have bathroom privileges according to need.

§ 5.84. If a meal is scheduled while a client is in time-out, the meal shall be provided to the client at the end of the time-out procedure.

PART VI. DISASTER OR EMERGENCY PLANS.

Article 1. Disaster or Emergency Procedures.

§ 6.1. Established written procedures shall be made known to all staff and clients, as appropriate for health and safety, for use in meeting specific emergencies including:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuations.

Article 2. Written Fire Plan.

§ 6.2. Each facility with the consultation and approval of the appropriate local fire authority shall develop a written plan to be implemented in case of a fire at the facility.

§ 6.3. Each fire plan shall address the responsibilities of staff and clients with respect to:

1. Sounding of fire alarms;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, evacuation of clients with special needs (i.e., deaf, blind, multi-handicapped) and checking to ensure complete evacuation of the buildings(s);
3. A system for alerting fire fighting authorities;
4. Use, maintenance and operation of fire fighting and fire warning equipment;
5. Fire containment procedures including closing of fire doors, fire windows or other fire barriers;
6. Posting of floor plans showing primary and secondary means of egress; and
7. Other special procedures developed with the local fire authority.

§ 6.4. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations determined by the appropriate local fire authority.

§ 6.5. The written fire plan shall be reviewed with the local fire authority at least annually and updated, if necessary.

§ 6.6. The procedures and responsibilities reflected in the

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written fire plan shall be made known to all staff and residents.

Article 3.

Posting of Fire Emergency Phone Number.

§ 6.7. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone in each building in which clients participate in programs.

Article 4.

Portable Fire Extinguishers.

§ 6.8. Portable fire extinguishers shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, on each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating.

§ 6.9. Fire extinguishers shall be mounted on a wall or post where they are clearly visible and so that the top is not more than five feet from the floor except that if a fire extinguisher weighs more than 140 pounds it shall be installed so that the top is not more than 2-1/2 feet from the floor. They shall be easy to reach and remove and they shall not be tiled down, locked in a cabinet, or placed in a closet or on the floor except that where extinguishers are subject to malicious use, locked cabinets may be used provided they include a means of emergency access.

§ 6.10. All required fire extinguishers shall be maintained in operable condition at all times.

§ 6.11. Each fire extinguisher shall be checked by properly oriented facility staff at least once each month to ensure that the extinguisher is available and appears to be in operable condition. A record of these checks shall be maintained for at least two years and shall include the date and initials of the person making the inspection.

§ 6.12. Each fire extinguisher shall be professionally maintained at least once each year. Each fire extinguisher shall have a tag or label securely attached which indicates the month and year the maintenance check was last performed and which identifies the company performing the service.

Article 5.

Smoke Alarms.

§ 6.13. Smoke detectors or smoke detection systems shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, the facility shall provide at least one approved and properly installed smoke detector:

1. In each hallway;
2. At the top of each interior stairway;
3. In each area designated for smoking;
4. In or immediately adjacent to each room with a furnace or other heat source;
5. In each additional location directed by the local building official, the local fire authority, or the state fire authority.

§ 6.14. Each smoke detector shall be maintained in operable condition at all times.

§ 6.15. If the facility is provided with single station smoke detectors, each smoke detector shall be tested by properly oriented staff at least once a month and if it is not functioning, it shall be restored to proper working order. A record of these tests shall be maintained for at least two years and shall include the date and initials of the person making the test.

§ 6.16. If the facility is provided with an automatic fire alarm system, the system shall be inspected by a qualified professional firm at least annually. A record of these inspections shall be maintained for at least two years and shall include the date and the name of the firm making the inspections.

Article 6.

Fire Drills.

§ 6.17. At least one fire drill (the simulation of fire safety procedures included in the written fire plan) shall be conducted each month in each building at the facility occupied by clients.

§ 6.18. Fire drills shall include, at a minimum:

1. Sounding of fire alarms;
2. Practice in building evacuation procedures;
3. Practice in alerting fire fighting authorities;
4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other simulated fire safety procedures as may be required by the facility's written fire plan.

§ 6.19. During any three consecutive calendar months, at least one fire drill shall be conducted during each shift.

§ 6.20. False alarms shall not be counted as fire drills.

§ 6.21. The facility shall designate at least one staff member to be responsible for conducting and documenting

fire drills.

§ 6.22. A record shall be maintained on each fire drill conducted and shall include the following information:

1. Building in which the drill was conducted;
2. Date of drill;
3. Time of drill;
4. Amount of time to evacuate building;
5. Specific problems encountered;
6. Specific tasks completed:
 - a. Doors and windows closed,
 - b. Head count,
 - c. Practice in notifying fire authority, and
 - d. Other;
7. Summary; and
8. Signature of staff member responsible for conducting and documenting the drill.

§ 6.23. The record for each fire drill shall be retained for two years subsequent to the drill.

§ 6.24. The facility shall designate a staff member to be responsible for the fire drill program at the facility who shall:

1. Ensure that fire drills are conducted at the times and intervals required by these regulations and the facility's written fire plan;
2. Review fire drill reports to identify problems in the conduct of fire drills and in the implementation of the requirements of the fire plan;
3. Consult with local fire authorities, as needed, and plan, implement and document training or other actions taken to remedy any problems found in the implementation of the procedures required by the written fire plan; and
4. Consult and cooperate with the local fire authority to plan and implement an educational program for facility staff and residents on topics in fire prevention and fire safety.

Article 7. Training in Fire Procedures.

§ 6.25. Each new staff member shall be trained in fire procedures and fire drill procedures within seven days

after employment.

§ 6.26. Each new staff member shall be trained in fire procedures and fire drill procedures prior to assuming sole responsibility for the supervision of one or more clients.

§ 6.27. Residents shall be oriented as to fire procedures at time of admission.

Article 8. Poison Control.

§ 6.28. The telephone number of a regional poison control center shall be posted on or next to at least one nonpay telephone in each building in which clients participate in programs.

§ 6.29. At least one 30cc bottle of Syrup of Ipecac shall be available on the premises of the facility for use at the direction of the poison control center or physician.

Article 9. Use of Vehicles and Power Equipment.

§ 6.30. Any transportation provided for and/or used by clients shall be in compliance with state and federal laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles; and
3. Licensure of drivers.

§ 6.31. There shall be written safety rules for transportation of clients, including handicapped clients appropriate to the population served.

§ 6.32. There shall be written safety rules for the use and maintenance of vehicles and power equipment.

Article 10. Control of Deviant or Criminal Behavior.

§ 6.33. The person in charge of the facility shall take all reasonable precautions to assure that no client is exposed to, or instigates such behavior as might be physically, emotionally or morally injurious to himself or to another person.

§ 6.34. Any incident relating to the operation of the facility which results in serious injury or death shall be investigated by the person in charge of the facility, appropriately reported to local authorities, and immediately reported to the department. A written report of the incident shall be made and kept on file by the facility and made available for review by authorized personnel.

PART VII. OUTPATIENT METHADONE TREATMENT

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FACILITIES.

Article 1. Applicability.

§ 7.1. Compliance with the regulations in Part VII is required for the licensure of outpatient methadone treatment facilities. These requirements are in addition to those requirements in Parts II through VI when outpatient facilities utilize the narcotic drug methadone as part of an outpatient substance abuse treatment and rehabilitation program because such a program requires more stringent admission procedures and criteria; drug administration procedures; record content and procedures; and services provided.

Article 2. Definitions.

§ 7.2. The following words and terms, when used in this part, shall have the following meaning unless the context clearly indicates otherwise:

"Licensed methadone treatment facility" means a person, partnership, governmental agency, corporation or association, licensed by the commissioner to operate a methadone treatment program.

"Methadone treatment program" means a person or organization furnishing a comprehensive range of services using methadone for the detoxification or maintenance treatment, or both, of narcotic addicts, conducting initial evaluation of patients and providing ongoing treatment at a specified location or locations.

"Detoxification treatment using methadone" means the administering or dispensing of methadone as a substitute narcotic drug in decreasing doses to reach a drug free state in a period not to exceed 21 days in order to withdraw an individual who is dependent on heroin or other morphine-like drug from the use of these drugs. A repeat episode of detoxification may not be initiated until one week after the completion of the previous detoxification.

"Maintenance treatment using methadone" means the continued administering or dispensing of methadone, in conjunction with provision of appropriate social and medical services, at relatively stable dosage levels for a period in excess of 21 days as an oral substitute for heroin or other morphine-like drugs, for an individual dependent on heroin.

"State Methadone Authority" means the commissioner of the department or his designee.

Article 3. Program Objectives.

§ 7.3. The objectives of a methadone treatment facility shall be:

1. To enable drug dependent patients to become productive citizens;
2. To promote the eventual withdrawal of patients from drug dependency;
3. To protect patients and society from any harmful effects of drug misuse;
4. To evaluate the effects of methadone in the treatment and rehabilitation of drug dependent patients; and
5. To promote the safe and controlled use of methadone according to sound medical practice and to prevent abuse or misuse of methadone.

Article 4. Program and Services.

§ 7.4. A licensed methadone treatment facility shall include facilities, resources and staff adequate to provide and shall provide or make appropriate arrangements for providing the following services:

1. Medical care; a written agreement with a hospital for the purpose of providing necessary emergency, inpatient, or ambulatory care for facility patients must be provided;
2. Individual or group therapy and family therapy;
3. Vocational rehabilitation services;
4. Educational services;
5. Counseling;
6. Other services should include social services and recreational therapy; and
7. Urinalysis. Random urine samples shall be collected from each prospective methadone client for analysis as part of the admission procedure to the program. Upon active methadone clients, at least eight additional random urinalysis shall be performed during the first year in maintenance treatment and at least quarterly random urinalysis shall be performed on each client in maintenance treatment for more than one year, except that a random urinalysis shall be performed monthly on each client who receives a six-day supply of take-home medication. Specimens shall be collected from each client in a manner that minimizes falsification. Urine collected shall be qualitatively analyzed for the morphine radical, other opiates, cocaine, methadone, barbiturates, amphetamines, and quinine, as well as other drugs as indicated. The results of this urinalysis are necessary for the overall treatment planning for individual clients receiving services and shall not be used in a punitive manner except to reduce or discontinue take

home privileges.

Article 5. Admissions.

§ 7.5. A patient may be admitted to a licensed facility only upon approval of the facility director following evaluation and examination.

§ 7.6. Each person selected as a patient for a maintenance program regardless of age, shall be determined by a facility physician to be currently physiologically dependent upon a narcotic drug and must have first become dependent at least one year prior to admission to a maintenance program except that:

1. A person who has resided in a penal or chronic care institution for one month or longer may be admitted to methadone maintenance treatment within 14 days prior to release or discharge or within three months after release from such an institution without evidence to support findings of physiological dependence, provided the person would have been eligible for admission prior to incarceration or institutionalization. Documented evidence of the prior residence in a penal or chronic care institution and evidence of all other findings and the criteria used to determine such findings shall be recorded in the patient's record by the admitting physician or by program personnel supervised by the admitting physician.

2. Pregnant patients, regardless of age or prior addiction history, who are otherwise eligible for methadone maintenance treatment, may be admitted to a maintenance regimen provided the medical director of the facility certifies in his judgment that such treatment is medically justified. Notification and justification for this patient's admission to methadone treatment will be communicated to the State Methadone Authority. Within six weeks after termination of the pregnancy, the physician shall enter an evaluation of the patient's treatment into the patient's record indicating whether she should remain in a maintenance treatment or be detoxified. Pregnant patients shall be given the opportunity for prenatal care either by the methadone program or by referral to appropriate health care providers. This shall be documented in the patient's record.

3. A patient who has been treated and subsequently detoxified from methadone maintenance treatment may be readmitted to methadone maintenance treatment without evidence to support findings of current physiologic dependence up to six months after discharge provided that prior methadone maintenance treatment of six months or more is documented from the program attended and that the admitting program physician, in his reasonable clinical judgment, finds readmission to methadone maintenance treatment to be medically justified.

§ 7.7. The safety and effectiveness of methadone when used in the treatment of patients under 18 years of age has not been proved by adequate clinical study. Special procedures are, therefore, necessary to assure that patients under age 16 years will not be admitted to maintenance treatment and that patients between 16 and 18 years of age be admitted to maintenance treatment only under limited conditions.

§ 7.8. Patients between 16 and 18 years of age who are admitted and under treatment in approved programs on the effective date of these regulations may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a methadone treatment program unless a parent, legal guardian, or legally authorized representative signs form FD-2635, "Consent to Methadone Treatment". Methadone maintenance treatment of new patients between the age of 16 and 18 years will be permitted only with (i) a documented history of two or more unsuccessful attempts at detoxification, (ii) a documented history of dependence on heroin or other morphine-like drugs beginning one year or more prior to application for treatment, and (iii) approval of such action by the State Methadone Authority. No patient under age 16 may be continued or started on maintenance treatment, but these patients may be detoxified and retained in the program in a drug-free state for follow-up and aftercare. Persons under 16 years of age may be admitted to methadone maintenance treatment in certain rare cases if prior approval is obtained from both the Food and Drug Administration and State Methadone Authority.

§ 7.9. Patients under age 18 who are not admitted to maintenance treatment may be detoxified. Detoxification may not exceed three weeks. A repeat episode of detoxification may not be initiated until four weeks after the completion of the previous detoxification.

§ 7.10. The following patients shall not be admitted to a licensed methadone program without prior approval of the State Methadone Authority:

1. Patients with serious concomitant physical illness may be included in methadone maintenance treatment only when comprehensive medical care is available. Such patients require careful observation for any adverse effects of methadone and interactions with other medications. The physician should promptly report adverse effects and evidence of interactions to the Food and Drug Administration.

2. Psychotic patients may be included in methadone maintenance treatment when adequate psychiatric consultation and care is available. Administration of concomitant psychotropic agents requires careful observation for possible drug interaction. Such occurrences should be promptly reported to the Food and Drug Administration.

Medical directors who intend to include in their

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program patients in categories 1 and 2 should so state in their protocols and give assurances of appropriate precautions.

§ 7.11. In exercising his professional judgment, the medical director, clinical director, or supervising clinician may refuse a particular person admission to treatment even if that person meets the admission requirements. The exclusion of the patient from treatment and the justification for such action shall be documented in the person's intake record by the medical director, clinical supervisor, or supervising clinician. However, it is the responsibility of the facility to recommend alternative treatment referrals for persons who have been denied admission.

§ 7.12. On admission to a licensed methadone facility, and periodically thereafter, each patient must provide information and data or submit to evaluations including, but not limited to the following:

1. Social history, including:
 - a. Age;
 - b. Sex;
 - c. Educational history;
 - d. Employment history;
 - e. History of substance abuse of all types;
 - f. Prior substance abuse treatment history;
 - g. Current legal problems, if any;
 - h. Criminal history, if any; and
 - i. Contact person to notify in case of emergency;
2. Medical history and history of psychiatric illness;
3. Formal psychiatric examination of patients with a prior history of psychiatric treatment and in those whom there is a question of psychosis and/or competence to give informed consent;
4. Assessment of the degree of physical dependence on, and psychic craving for, narcotics and other drugs;
5. Evaluation of attitudes and motivations for participation in the program;
6. Physical examination and any laboratory or other special examination indicated in the judgment of the medical director;
7. Tuberculin test;
8. Serologic test for syphilis;

9. Bacteriological culture for gonorrhea;

10. Recommended lab exam:

- a. Complete blood count;
- b. Routine and microscopic urinalysis;
- c. Liver functions profile;
- d. When tuberculin test is positive, chest x-ray;
- e. Australian antigen Hb ag. Testing (Haa testing);
- f. When clinically indicated, an EKG; and
- g. Pregnancy test for females and a pap smear when appropriate.

§ 7.13. Each person shall be informed concerning the possible risks associated with the use of methadone. Participation in the program shall be voluntary. The facility director shall ensure that all the relevant facts concerning the use of methadone are clearly and adequately explained to the patient and that all patients (including those under 18) shall sign, with knowledge and understanding of its contents, the first part of Form FD 2635 "Consent to Methadone Treatment". Parents or guardians of patients under age 18 shall also sign the second part of this form. Form 2635 shall be signed again for each readmission if a two-week lapse in treatment has preceded the readmission.

§ 7.14. Each patient shall be provided with a written statement describing the program. The patient shall sign a statement to the effect that he accepts and understands the program and will:

1. Present himself daily for medication. Such medication shall be taken orally in front of a licensed practitioner (registered nurse, licensed practical nurse, physician, or pharmacist);
2. Behave according to designated treatment requirements;
3. Attend such classes, group session or interviews to which he is assigned;
4. Not use illicit substances; and
5. Give a urine sample in front of an attendant regularly, when requested.

Article 6. Dismissal From Program.

§ 7.15. Patients may be dismissed from the program at the discretion of the director when he determines that the program or the patient's treatment will be adversely affected by the conduct of the patient, such as:

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1. Continued illegal use of narcotics or other drugs;
2. Conviction of a misdemeanor or felony;
3. Failure to cooperate with the program;
4. Repeated failure to keep appointments in the treatment program;
5. Repeated failure to take medication as directed; or
6. Conduct which adversely affects the patient, other patients or the program.

§ 7.16. Patients who are dismissed from the program for misconduct may appeal the dismissal decision through a formal appeals procedure that has been developed by the program. Decisions of these appeal proceedings shall be recorded in the patient's records.

§ 7.17. Before leaving the program, a patient shall be given the opportunity for detoxification from methadone according to a plan approved by the medical director of the program.

§ 7.18. A patient from one methadone facility must be properly identified before starting treatment at any other methadone facility. A letter of transfer from the medical director, including a description and photograph of the patient, summary of pertinent clinical information, must be received by the receiving methadone facility within two weeks of the patient receiving methadone. A confirming telephone conversation with a licensed practitioner concerning the current dosage, particular medical problems and reason for transfer must be documented in the patient's chart prior to his receiving methadone.

§ 7.19. Consideration may be given to discontinuing methadone for participants who have maintained satisfactory adjustment over an extended period of time. In such cases, follow-up evaluation is to be obtained periodically.

Article 7. Dosage and Dosage Administration.

§ 7.20. All take-home doses of methadone or oral administration in liquid form shall be prepared under the immediate supervision of a licensed pharmacist or physician and shall be in a suitable vehicle formulated to minimize misuse by parenteral and accidental ingestion.

§ 7.21. Take-home medication shall be labeled under the direct supervision of the pharmacist or physician.

§ 7.22. All methadone for outpatient use shall be dispensed in containers whose composition is chemically and physically compatible with methadone and its vehicle so as to maintain the integrity and effectiveness of the container and its contents. These containers shall be glass, light resistant and tightly closed with child-resistant effectiveness

of not less than 85% without a demonstration and not less than 80% after a demonstration of the proper means of opening such special packaging.

§ 7.23. Methadone shall be administered by a physician licensed and registered under state and federal law to prescribe narcotic drugs for patients or by an agent of the physician supervised by and pursuant to the order of the physician. Such agent shall be limited to a pharmacist, a registered nurse, or a practical nurse, all licensed by the Commonwealth of Virginia. The licensed physician assumes responsibility for the amounts of methadone administered or dispensed. All changes in dosage schedule shall be recorded and signed by the physician.

Article 8. Maintenance Treatment.

§ 7.24. The usual initial dose is 20-40 milligrams. Subsequently, the dosage may be adjusted individually as tolerated and required to a maintenance level of approximately 40-120 milligrams daily.

§ 7.25. For daily dosages above 100 milligrams patients shall ingest medication under observation six days per week. These patients may be allowed take-home medication for one day per week only.

§ 7.26. A daily dose of 100 milligrams or more shall be justified in the medical record. For daily dosages above 100 milligrams or, for take-home doses above 100 milligrams per day, prior approval shall be obtained from the State Methadone Authority.

Article 9. Frequency of Attendance.

§ 7.27. For detoxification, the drug will be administered daily under close observation.

§ 7.28. For maintenance initially, the patient shall receive the medication under observation daily for at least six days a week.

§ 7.29. In maintenance treatment, after demonstrating satisfactory adherence to the program requirements for at least three months by participating actively in the program activities and/or by participating in educational, vocational and homemaking activities, those patients whose employment, education or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to three times weekly the time when they must ingest the drug under observation. Such patients shall receive no more than a two day take-home supply.

Article 10. Take-home Medications.

§ 7.30. With continuing adherence to the program's requirements and progressive rehabilitation for at least two years after entrance into the program, such patients may

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be permitted twice weekly visits to the facility for methadone ingestion under observation with a three day take-home supply.

§ 7.31. Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits, shall be recorded in the patient's record.

§ 7.32. Additional take-home medication may be provided at the discretion of the medical director in exceptional circumstances such as illness, family crisis or necessary travel where hardship would result from requiring the customary daily observed medication intake for the specific period in question. However, under no circumstances shall take-home dosage exceed a two-week supply.

Article II. Security Measures.

§ 7.33. Security measures shall be taken to prevent diversion of methadone into illicit channels. Stocks of methadone shall be kept at the minimum quantity consistent with the needs of the patient population. Security measures shall be outlined by the program director in the license application form.

Article 12. Patient Records.

§ 7.34. Director of accredited methadone programs are required to maintain detailed patient records which shall include but not be limited to:

1. Preliminary intake interview;
2. Social history;
3. Physical and psychological evaluation;
4. Patient consent form;
5. Current treatment plan accompanied by progress recordings. Initial treatment plan shall be documented in each patient's record within four weeks after admission;
6. Laboratory report;
7. Amount of methadone administered or dispensed;
8. Results of urinalysis;
9. Patient attendance record;
10. Detailed account of any adverse reaction, deaths, premature births, or adverse reactions displayed by a newborn which, in the opinion of the attending physician, are due to methadone shall be reported within one month to the Food and Drug

Administration and State Methadone Authority on Form FD-1639, "Drug Experience Report";

ii. An evaluation of the patient's treatment and progress shall be carried out at least quarterly by the primary counselor. A review of client progress by clinical staff supervisors or consultants will be undertaken at least semi-annually. These evaluations shall be documented in the patients' records.

Article 13. Program Records.

§ 7.35. Each licensed methadone facility shall be registered with the Drug Enforcement Administration under the category which applies to its business activity.

§ 7.36. Methadone shall be obtained only by use of DEA Form 222 from a Drug Enforcement Administration registered manufacturer or wholesaler and delivered directly to the facility or procured by the program pharmacist from the wholesaler.

§ 7.37. The facility shall keep accurate records of receipt and disbursement as required by the drug Enforcement Administration and the Virginia State Board of Pharmacy.

Article 14. Confidentiality of Patient Records.

§ 7.38. Disclosure of patient records maintained by any facility shall be governed by 42 CFR Part 2 of the Code of Federal Regulations (7/1/75) and every program shall comply with the provisions contained therein. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by federal and state controlled substances laws; but use or disclosure of records identifying patients shall be limited to actions involving the facility or its personnel.

§ 7.39. Every licensed facility may protect the privacy of patients therein by withholding from all persons not employed by such facility or otherwise connected with the conduct of the facility operations, the names or other identifying characteristics of such patients where the facility director has reasonable grounds to believe that such information may be used to conduct any criminal investigation or prosecution of the patient. Facilities may not be compelled in any federal, state or local, civil, criminal, administrative or other proceedings to furnish such information. This does not require the withholding of information authorized to be furnished pursuant to 42 CFR Part 2, nor does it invalidate any legal process to compel the furnishing of information in accordance with 42 CFR Part 2. Furthermore, a licensed facility shall permit a duly authorized employee of the Food and Drug Administration or the State Methadone Authority to have access to and copy all records relating to the use of methadone in accordance with the provisions of 42 CFR Part 2 and shall reveal them only when necessary in a related administrative or court proceeding.

§ 7.40. The following records are to be maintained on file at a licensed methadone treatment facility:

1. FD-2632. Application for approval of use of methadone in a treatment program;
2. FD-2633. Medical responsibility statement for use of methadone in a treatment program;
3. FD-2634. Annual report for treatment program using methadone NDATUS;
4. FD-2636. (if hospital) Hospital request for methadone for detoxification treatment;
5. FD-1639. Drug Experience Report.

Article 15. Evaluation.

§ 7.41. Evaluation of the safety of methadone administered over prolonged periods of time is to be based on results of physical examinations, laboratory examinations, adverse reactions, and results of special procedures when such have been carried out.

§ 7.42. Evaluation of effectiveness of rehabilitation is to be based upon, but not limited to, such criteria as:

1. Social adjustment verified whenever possible by family members of other reliable persons;
2. Withdrawal from methadone and achievement of an enduring drug-free status;
3. Assessment of progress in meeting current treatment plan;
4. Occupational adjustment verified by employers or record of earnings;
5. Extent of drug abuse;
6. Extent of alcohol abuse; and
7. Arrest records.

Article 16. Special Conditions for Use of Methadone in Hospitals for Detoxification and Treatment.

§ 7.43. The following words and terms, when used in this article, shall have the following meaning, unless the content clearly indicates otherwise:

"Detoxification treatment using methadone" means the administering of methadone as a substitute narcotic drug in decreasing doses to reach a drug-free state in a period not to exceed 21 days in order to withdraw an individual who is dependent on heroin or other morphine-like drugs from the use of such drugs.

"Temporary maintenance treatment" means (i) treatment of an opiate-addicted patient hospitalized for medical or surgical problems other than opiate addiction; and (ii) emergency treatment of an opiate-addicted person on an inpatient or outpatient basis for not more than 72 hours for such addiction.

§ 7.44. Methadone may be administered or dispensed in a hospital in either oral or parenteral form.

§ 7.45. Temporary maintenance treatment may be instituted in a hospital for an opiate-addicted patient for a medical or surgical problem (other than the addiction) which would be complicated by the patient's not receiving maintenance doses of an opiate. In such instances, the patient may be treated with methadone during the critical period of his hospital confinement. Such patient need not be currently enrolled in a licensed methadone treatment program.

§ 7.46. An opiate-addicted patient may be treated on an emergency inpatient or outpatient basis for not more than 72 hours until he can be admitted to a licensed methadone treatment facility. This 72-hour emergency treatment may be given to a patient who has no medical or surgical problem other than opiate addiction. This treatment shall not be renewed or extended for any given patient. Methadone shall be dispensed and administered daily by the hospital. No take-home doses shall be allowed for this treatment regimen.

§ 7.47. If the hospital is located in the same locality as a licensed methadone treatment facility, the facility may provide the methadone for a patient who is hospitalized for treatment for a condition other than narcotic addiction and who is presently enrolled in the methadone treatment program, provided:

1. A licensed practitioner from the facility (registered nurse, pharmacist, physician or licensed practical nurse) shall administer the methadone directly to the patient on a daily basis.

2. No hospital personnel shall administer the methadone to the patient if the methadone facility's drug supply is used.

3. The facility shall not leave a stock of doses for the patient within the hospital. The hospital may use its own stock of methadone in any available formulation if it so elects. Medical personnel within the hospital may then administer the drug to the patient.

4. Hospitals which wish to provide detoxification or maintenance of an opiate addicted person who has been admitted solely for his addiction problem shall submit FDA Form 2636, "Hospital Request for Methadone for Analgesia in Severe Pain, and Detoxification and Temporary Maintenance Treatment" as well as registering with the Drug Enforcement Administration on form DEA 363 "New Application for

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Registration Under Narcotic Addict Treatment Act of 2974."

* * * * *

Title of Regulation: VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia

Public Hearing Dates:

July 21, 1987 - 10 a.m.

July 28, 1987 - 10 a.m.

Written comments will be received through July 31, 1987

(See Calendar of Events section for additional information)

Summary:

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health and Mental Retardation is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The term "residential facility" includes with certain exceptions any publicly or privately owned facility or institution by whatever name or designation which provides 24 hour domiciliary or residential care or treatment for four or more adult mentally ill or mentally retarded persons, or adult persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility.

These regulations articulate the minimum requirements for licensure of residential facilities providing care or treatment in order to protect the health and safety of mentally ill, mentally retarded and substance abusing clients in residential facilities and to assure that they receive services that are appropriate to meet their identified needs.

These regulations are comprised of the following issues which have impact on residential facilities subject to licensure:

Organization and administration, personnel, residential environment, programs and services, disaster or emergency plans, and special requirements for residential methadone treatment facilities.

These are new regulations that will replace the current Rules and Regulations for the Licensure of Group Homes and Halfway houses and the current Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

**PART I.
INTRODUCTION.**

**Article I.
Definitions.**

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

"Advocate" means a person or persons appointed by the commissioner after consultation with the State Human Rights Director and the Local Human Rights Committee who exercise the duties set forth in Part III of the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health and Mental Retardation.

"Allegation" means an accusation that a facility is operating without a license.

"Ambulatory detoxification services" means a program/service provided in an outpatient facility to people under the influence of intoxicants that provides a safe place to withdraw from such intoxicants, but the term "ambulatory detoxification services" does not include detoxification and treatment with the controlled drug methadone (see Part VII). Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room. Clients may be referred to an outpatient substance abuse facility or to an intermediate care facility when appropriate.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license.

"Behavior management" means planned and systematic use of various techniques selected according to group and individual differences of the residents and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior, and to reduce or to eliminate undesirable behavior. (The term is consistently generic and is not confined to those techniques which derive specifically from behavior therapy, operant conditioning, etc.)

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

"Case record" or "Record" means written information

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assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

"Child" means any person legally defined as a child under State law.

"Client" means mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants.

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

"Complaint" means an accusation against a licensed facility regarding an alleged violation of regulations or law.

"Corporal punishment" means the inflicting of pain or discomfort to the body through actions such as but not limited to striking or hitting with any part of the body or with an implement; or through pinching, pulling, or shaking; or through any similar action which normally inflicts pain or discomfort.

"Day off" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive day off immediately following the first shall consist of not less than 24 additional consecutive hours.

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

"Detoxification facility" means a residential facility or a portion thereof that is licensed under these regulations as a nonhospital medical detoxification service, a sobering-up shelter service or a social detoxification service, but does not include a hospital based medical detoxification service or an inpatient substance abuse facility as defined in these regulations.

"Drug addict" means a person who: (i) through the use of habit forming drugs or other drugs enumerated in the Virginia Drug Control Act (§ 54-524.1 et seq.) as controlled drugs, has become dangerous to the public or himself; or (ii) because of such drug use, is medically determined to be in need of medical or psychiatric care, treatment, rehabilitation or counseling.

"Facility" or "institution" means any facility not operated by an agency of the federal government by whatever name or designation which provides care or treatment for mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. Such institution or

facility shall include a hospital as defined in subsection 1 of § 32.1-123 of the Code of Virginia, outpatient clinic, special school, halfway house, home and any other similar or related facility.

"Hospital" or "hospitals" when not modified by the words "state" or "private" means both state hospitals and private hospitals devoted to or with facilities for the care and treatment of mentally ill, mentally retarded or substance abusing persons.

"Hospital-based medical detoxification service" means a program/service which offers medical treatment to persons suffering from alcohol or other drug intoxication. This service is provided in a hospital under the direction of a physician and hospital staff and is designed to monitor and control medical complications and other disorders which may be associated with withdrawal.

"Human research" means any medical or psychological investigation designed to develop or contribute to general knowledge and which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects and which departs from the application of those established and accepted methods appropriate to meet the subjects' needs but does not include:

1. The conduct of biological studies exclusively utilizing tissue of fluids after their removal or withdrawal from human subject in the course of standard medical practice;
2. Epidemiological investigations; or
3. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated.

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of each resident. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out the plan.

"Inpatient substance abuse facility" means an organization established to provide effective intervention for substance abuse by providing medical detoxification and by treating the medical and psychiatric complications of substance abuse through an organized medical and professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

"Intermediate care substance abuse facility" means an organization established to provide a continuous, structured residential program of services including assessment, counseling, vocational and social rehabilitation for four or more substance abusing persons. This type of facility provides full-time residential treatment services and is

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exemplified by therapeutic communities and residential treatment centers.

"Intrusive aversive therapy" means a formal behavior modification technique designed to reduce or eliminate severely maladaptive, violent or self-injurious behavior through the application of noxious or painful stimuli contingent upon the exhibition of such behavior. The term shall not include actions defined in these regulations as corporal punishment, nor does it include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia, or psychotropic medications which are not used for purposes of intrusive aversive therapy.

"Licensee" means the person, corporation, partnership, association, or public agency to whom a license is issued and who is legally responsible for compliance with the regulations and statutory requirements relating to the facility.

"Local human rights committee" means a committee of at least five members broadly representative of professional and consumer groups appointed by the State Human Rights Committee 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 applicable human rights regulations. Except where otherwise provided, the term "Local human rights committee" shall mean this body or any subcommittee thereof.

"Mechanical restraint" means the application of machinery or tools as a means of physically restraining or controlling a resident's behavior, such as handcuffs, straitjackets or shackles but not including bed straps, bed rails, slings and other devices employed to support or protect physically incapacitated residents.

"Mental retardation" means substantial subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior.

"Nonhospital medical detoxification service" means a program/service which provides a medically supervised withdrawal from alcohol or other drug intoxication in a nonhospital setting. Twenty-four hour nursing care and the services of on-call physicians are available. Services include medical screening and evaluation, basic laboratory analysis, physical exams and chemotherapy, as ordered by a physician. Medical referrals are made as necessary. Case management including referral to further residential or outpatient treatment is available.

"On duty" means that period of time during which a staff person is responsible for the care and supervision of one or more residents.

"Outpatient facility" means any publicly or privately

owned institution, establishment or other entity by whatever name or designation which provides a variety of treatment interventions which individually are less than three consecutive hours duration for mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting to individuals, groups and families and include but are not limited to emergency services, crisis intervention, counseling, psychotherapy, behavior management, chemotherapy, ambulatory detoxification, and methadone detoxification and maintenance. The term outpatient facility does not include the treatment rooms or offices used to provide the services of:

1. Professional associations organized by three or more practitioners of the same healing art or by three or more psychologists under the provisions of Chapter 25 (§ 54-873 et seq.) of Title 54 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service, provided that the associates and any employees of the association who render professional services on behalf of the association are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice psychology;
2. Professional corporations organized by one or more practitioners of the same healing art or by practitioners of the same behavioral science profession under the provisions of Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service, provided that the shareholders and any employees of the professional corporation who render professional services on behalf of the professional corporation are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;
3. General partnerships formed under the provisions of Chapter 1 (§ 50-1 et seq.) of Title 50 of the Code of Virginia by two or more individual practitioners of the same healing art or of the same behavioral science profession for the sole and specific purpose of rendering the same and specific professional service, provided that the partners and any employees of the general partnership who render professional services on behalf of the general partnership are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;
4. Individual practitioners of the healing arts licensed under the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of the Code of Virginia;

5. Individual practitioners of the behavioral science professions licensed under the provisions of Chapter 28 (§ 54-923 et seq.) of Title 54 of the Code of Virginia;

6. Psychiatric hospitals licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, provided that such treatment rooms or offices are situated on the same premises as the psychiatric hospital so licensed; or

7. Day support programs licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

"Outpatient substance abuse facility" means an establishment which provides in a nonresidential setting a variety of services to substance abusing persons and their families including assessment, direct substance abuse treatment services which the facility's organization can itself provide, and indirect treatment services which the facility's organization secures through referral, on both a scheduled and unscheduled basis.

"Patient" or "resident" means a person voluntarily or involuntarily admitted to or residing in a facility licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

"Physical restraint" means any act by the facility or staff which exercises the use of physical confrontation or force with residents as a method or technique of managing harmful resident behavior.

"Premises" means the tract(s) of land on which any part of a residential facility is located and any buildings on such tract(s) of land.

"Private hospital" means a hospital or similar institution which is not operated by the department and is duly licensed pursuant to the provisions of § 37.1-179 et seq., Code of Virginia and includes psychiatric wards of general hospitals.

"Private institution" means an establishment which is not operated by the department and which is licensed pursuant to the provisions of § 37.1-179 et seq. of the Code of Virginia.

"Professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service or use of such title the obtaining of a license, certification or other legal authorization from a state examining board issued under the provisions of Title 54 of the Code of Virginia, except that the phrase "rendering the same and specific professional service" as used in these regulations in the exclusions from the term "outpatient facility" shall not be interpreted to prohibit such excluded professional associations, professional corporations, and general partnerships from employing such person to assist in rendering the sole and specific professional service for

which such entities are organized such as: (i) professional nurses and licensed practical nurses licensed pursuant to the provisions of Chapter 13.1 (§ 54-367.1 et seq.) of Title 54 of the Code of Virginia; (ii) physical therapists licensed pursuant to the provisions of Chapter 12 (§ 273 et seq.) of Title 54 of the Code of Virginia; or (iii) clerks, secretaries, bookkeepers, technicians and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional service to the public for which a license or other legal authorization is required.

"Program" means a combination of procedures or activities carried out in order to meet a specific goal or objective.

"Punishment" means the use of an aversive event or the removal of a positive event following a behavior which decreases, or is intended to decrease the probability of that behavior. This includes a pain, loss, or penalty inflicted for a fault or mistake.

"Regional Advocate" means a person or persons who perform the functions set forth in Part IV of the Rules and Regulations Assuring the Rights of Clients in Community Programs and who are appointed by the commissioner after consultation with the State Human Rights Director.

"Rehabilitation" means assistance provided for a disabled individual to return to his fullest potential in occupational, social and psychological life by reducing the residual effects of his handicapping condition.

"Resident" means a person admitted to a residential facility for supervision, care, training or treatment on a 24 hour basis. For the purpose of these regulations, the words "resident" and "client" are used interchangeably.

"Residential facility" means any publicly or privately owned facility or institution by whatever name or designation which provides 24 hour domiciliary or residential care or treatment for four or more mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility except:

1. A residential facility operated by an agency of the federal government;
2. A private family home;
3. A hospital as defined in subsection 1 of § 32.1-123 of the Code of Virginia serving mentally ill persons;
4. A hospital-based medical detoxification service; an

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inpatient substance abuse facility; an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts; or a screening and referral facility (substance abuse) as these facilities are defined in these regulations.

5. A facility or portion of a facility licensed by the State Board of Social Services.

6. A facility or portion of a facility licensed by the State Board of Health.

7. A facility or portion of a facility which provides domiciliary or residential care to children.

8. A residential respite care/emergency shelter facility.

"Residential respite care/emergency shelter facility" means a facility that is specifically approved to provide periodic residential respite care/emergency shelter services for four or more persons but does not include:

1. A residential facility as defined in these regulations;

2. A residential facility operated by an agency of the federal government;

3. A private family home;

4. A hospital as defined in subsection 1 of § 32.1-123 of the Code of Virginia serving mentally ill persons;

5. A hospital-based medical detoxification service; an inpatient substance abuse facility; an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts; or a screening and referral facility (substance abuse) as these facilities are defined in these regulations.

6. A facility or portion of a facility licensed by the State Board of Social Services.

7. A facility or portion of a facility licensed by the State Board of Health.

8. A facility or portion of a facility which provides domiciliary or residential care to children; or

9. A supported residential program as defined in these regulations.

"Residential respite care/emergency shelter services" means the provision of periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency shelter or to provide temporary relief to parents/guardians from responsibility for the direct care of the resident.

"Right" means that to which one has a natural, legal or

moral claim.

"Sanitize" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypochlorite. The amount of bleach used may be in accordance with manufacturer's recommendation on the package.

"Screening and referral facility (substance abuse)" means an organization which provides services in a nonresidential setting to determine the type and extent of the substance abuse problem of the individual seeking help and which is conducted by persons competent to make such judgments and to direct, guide and link the recipient to other appropriate services and follow-up on services rendered.

"Seclusion" means confining a resident in a room with the door secured in any manner that will prohibit the resident from opening it.

"Severe weather" means extreme environmental or climatic conditions which pose a threat to the health, safety or welfare of residents.

"Sobering-up shelter service" means a residential program/service offered to people under the influence of intoxicants that provides a safe place to "sleep it off." Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room. Outpatient or intermediate care facility referral may be available.

"Social detoxification service" means a residential program/service which enables intoxicated persons to safely withdraw from the effects of intoxicants. Trained staff are present to monitor vital signs. People who experience medical complications are sent to a hospital emergency room. The program/service does not prescribe medication although clients may remain on prescription drugs while in the program if a physician authorizes the use of such drugs. Clients participating in social detoxification services receive supervised care during withdrawal followed by alcohol education, an opportunity to attend Alcoholics Anonymous meetings and individual and group counseling. Case management including referral to further residential or outpatient treatment is available.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"State hospital" means a hospital, training school or other such institution operated by the department for the care and treatment of the mentally ill or mentally retarded.

"State human rights committee" 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 and the Rules and Regulations to

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Assure the Rights of Clients in Community Programs whose responsibility it shall be to perform the functions specified in those regulations. The term "State human rights committee" includes any subcommittee thereof.

"Substance abuse" means the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior.

"Substantial compliance" means a demonstration by a facility of full compliance with sufficient applicable regulations to clearly demonstrate that its program and physical plant can provide reasonably safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented.

"Supported residential program" means any publicly or privately operated facility, institution or other entity which provides placement, domiciliary care, residential respite care/emergency shelter services or supportive services in supported residential settings to mentally ill or mentally retarded persons or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants. Supported residential settings may include (i) residential respite care/emergency shelter facilities, (ii) residential service systems which sponsor a number of single housing units for three or fewer persons such as supervised apartments or specialized adult foster care provided in private family homes, or (iii) contracted beds in licensed residential facilities. The term supported residential program does not include:

1. A residential facility operated by an agency of the federal government;
2. A residential facility as defined in these regulations;
3. A hospital as defined in subsection 1 of § 32.1-123 of the Code of Virginia serving mentally ill persons;
4. A hospital-based medical detoxification service; an inpatient substance abuse facility; an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts; or a screening and referral facility (substance abuse) as these facilities are defined in these regulations.
5. A facility or portion of a facility licensed by the State Board of Social Services.
6. A facility or portion of a facility licensed by the State Board of Health.
7. A facility or portion of a facility which provides domiciliary or residential care to children; or
8. A residential respite care/emergency shelter facility

as defined in these regulations; or

9. A program or services provided by a local department of welfare/social services.

"Time-out procedure" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a resident from contact with people or other reinforcing stimuli through confining the resident alone to a special time-out room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli. The time-out room shall not be locked nor the door secured in any manner that will prohibit the resident from opening it.

"Transitional domiciliary substance abuse facility" means a facility which provides an organized program of domiciliary and supportive services, to four or more substance abusing persons unrelated by birth or marriage, and such services are administered according to the degree of transitional needs of service recipients. As distinguished from the intermediate care facility, this type of facility provides part-time residential treatment services as exemplified by halfway houses, quarterway houses, and other community residential facilities wherein the resident may leave the facility for part of the day for work, training, education or other community based services.

"Treatment" means any intervention which helps a person in the reduction or amelioration of disability, discomfort, symptoms, disorders or undesirable changes or conditions specific to physical, mental, behavioral or social functioning.

Article 2. Legal Base.

§ 1.2. Pursuant to § 37.1-179 et seq. of the Code of Virginia, no person shall establish, conduct, maintain or operate in this Commonwealth any facility or institution as defined in § 37.1-179 without first being duly licensed, except where such facility or institution is exempt from licensing.

Article 3. Facilities Subject to Licensure Under These Regulations.

§ 1.3. No person shall establish, conduct, maintain or operate in this Commonwealth any residential facility as defined in § 1.1 of these regulations without first being duly licensed, except where such residential facility is exempt from licensing.

Article 4. General Licensing Requirements.

§ 1.4. All residential facilities shall demonstrate an acceptable level of compliance with these regulations and other applicable statutory requirements and shall submit a plan of corrective action acceptable to the commissioner

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for remedying within a specified time any noncompliance with these regulations in order to be licensed to operate in this Commonwealth.

Article 5. Separate License Required.

§ 1.5. A separate license shall be required by facilities, establishments, or institutions maintained on separate premises even though they are operated under the same management. Separate buildings on the same grounds utilized for the same licensed program or activity shall not be required to have separate licenses. In the event alterations or additions increase the bed capacity of a facility, approval by the commissioner and a new or modified license shall be obtained before beginning operation of the additional space.

Article 6. Preapplication Consultation Services.

§ 1.6. Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the licensure office.

§ 1.7. Preapplication consultation may be designed to accomplish the following purposes:

1. To explain regulations and statutes;
2. To help the potential applicant explore the operational demands of a licensed residential facility;
3. To provide assistance in locating sources of information and technical assistance;
4. To refer the potential applicant to appropriate agencies such as the Department of Health, State Fire Marshal, local fire department and local building officials; and
5. To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed.

Article 7. Application for License or License Renewal.

§ 1.8. A request for an original application shall be made in writing to the department.

§ 1.9. Application for license or license renewal to establish or maintain a facility shall be made in writing and submitted to the department upon the application forms secured from the department.

§ 1.10. Structural changes in a proposed or existing facility shall not be undertaken until notification has been made to the department and building plans for such structural changes have been approved by the department.

§ 1.11. Written zoning approval or a use permit where required by local jurisdictions shall be a prerequisite for an original license.

§ 1.12. A certificate of use and occupancy or approval from the authorized inspection agency for building code compliance, when applicable, shall be a prerequisite for original licensure.

§ 1.14. Every facility shall be designated by a permanent and distinctive name and physical location which shall appear on the application for license or license renewal and which shall not be changed without first securing approval of the department.

§ 1.15. Corporations sponsoring residential facilities shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate residential facilities shall provide for such operations in their charters.

§ 1.16. Corporate applicants shall provide the name and address of the registered agent and a copy of the articles of incorporation.

§ 1.17. Ownership interest shall be made fully known to the department and in the case of corporations, all individuals or entities holding 5.0% or more of total ownership shall be identified by name and address.

§ 1.18. Application for license renewal should be submitted to the department at least 60 days prior to the expiration date.

Article 8. The License.

§ 1.19. The commissioner may issue a license to a residential facility making application for a license only after he is satisfied that: (i) the program outlined will contribute to the appropriate care, rehabilitation or treatment of clients; (ii) the applicant meets all applicable health, safety, sanitation, building and zoning requirements, either local or state; (iii) the applicant substantially complies with all provisions of these regulations; and (iv) the applicant has submitted a plan of corrective action acceptable to the commissioner for remedying with a specified time any noncompliance with these regulations.

§ 1.20. The commissioner may issue to a facility or institution that has fulfilled the conditions listed in § 1.19 of this regulation a full license that is effective for any period not to exceed two years from its date of issuance, unless it is revoked or surrendered sooner.

§ 1.21. The commissioner at his discretion may issue a conditional license to operate a new facility or institution in order to permit the applicant to demonstrate compliance with all applicable requirements. Such a conditional license may be renewed, but such conditional license and any renewals thereof shall not exceed a period

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of six successive months, unless it is revoked or surrendered sooner.

§ 1.22. The commissioner may issue a provisional license to a facility or institution which has previously been fully licensed when such facility or institution is temporarily unable to comply with all licensing regulations. Such provisional license may be issued for any period not to exceed ninety days and shall not be renewed.

§ 1.23. The terms of any license issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or corporation or public agency to whom the license is issued; (iii) the physical location of the facility; (iv) the nature of the population served; (v) the maximum number of persons to be accepted for care; (vi) the effective dates of the license; and (vii) other specifications prescribed within the context of the regulations.

§ 1.24. The license is not assignable or transferable and automatically expires when there is a change of ownership, sponsorship, or location, or when there is a substantial change in services or clientele which would alter the evaluation findings and terms under which the facility was licensed.

§ 1.25. The current license shall be posted at all times at the facility in a place conspicuous to the public.

§ 1.26. Each residential facility license issued by the commissioner shall specify the facility's bed capacity, i.e. the maximum number of persons that the facility is permitted to house. The number of beds allowed shall be subject to approval by the department and shall so appear on the license issued by the commissioner.

§ 1.27. No facility shall operate more beds than the number for which it is licensed except in a catastrophic emergency when temporary permission may be granted by the commissioner.

§ 1.28. At no time shall clients be housed in areas which have not been approved by the department.

§ 1.29. A request for an increase in bed capacity shall be made in writing to the department.

§ 1.30. No increase in beds will be granted without written approval of the department subject to Certificate of Public Need review.

Article 9. Certificate of Public Need.

§ 1.31. Prior to the commencement of any proposed facility or project as defined in Title 32.1, §§ 32.1-102.1 to 32.1-102.11 of the Code of Virginia, application shall be made to the State Health Commissioner for certification that there exists a public need for such a project in accordance with Chapter 4 Title 32.1 of the Code of

Virginia. A copy of such certificate or exemption therefrom shall be submitted with the application.

Article 10. Inspection.

§ 1.32. Each applicant or licensee agrees as a condition of application or license to permit properly designated representatives of the department to enter upon and inspect any and all premises for which a license has either been applied or issued, including any books and records relating to the operation of the facility to verify information contained in the application, or to assure compliance with all laws, rules and regulations relating thereto, during all hours of operation of such facility and at any other reasonable hour.

Article 11. Early Compliance.

§ 1.33. A provisional or conditional license may be replaced with a full license when all of the following conditions exist:

1. The facility has complied with all regulations cited in noncompliance at the time of issuance of the provisional or conditional license well in advance of its expiration date and the facility is in substantial compliance with all other regulations;
2. Compliance has been verified by an on-site observation by a representative(s) of the department or by written evidence provided by the licensee; and
3. All other terms of the license remain the same.

§ 1.34. A request to replace a provisional or conditional license and to issue a full license shall be made in writing to the department by the licensee.

§ 1.35. If the request is approved, the effective date of the new license will be the same as the beginning date of the provisional or conditional license.

Article 12. Situation Requiring a New Application.

§ 1.36. A new application shall be filed in the following circumstances:

1. Change in ownership or sponsorship;
2. Change of location; or
3. Substantial change in services provided or target population.

Article 13. Modification of License.

§ 1.37. The terms of a license may be modified during the

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term of the license with respect to the number of beds or other conditions which do not constitute substantial changes in the services or target population.

The licensee shall submit a written report to the department of any contemplated changes in operation which would affect either the terms of the license or the continuing eligibility for a license.

A determination will be made as to whether changes may be approved and the license modified accordingly or whether an application for a new license must be filed. The licensee will be notified in writing within 30 days as to whether the modification is approved or a new license is required.

Article 14. Allowable Variance.

§ 1.38. The department has the sole authority to waive a regulation either temporarily or permanently when in its opinion:

1. Enforcement will create an undue hardship;
2. The regulation is not specifically required by statute or by the regulations of another government agency; and
3. Resident care would not be adversely affected.

§ 1.39. Any request for an allowable variance shall be submitted in writing to the department.

§ 1.40. The denial of request for a variance is appealable through the normal appeals process when it leads to the denial or revocation of a license.

Article 15. Investigation of Complaints and Allegations.

§ 1.41. The department is responsible for complete and prompt investigation of all complaints and allegations. Suspected criminal violations shall be reported to the appropriate law-enforcement authority.

Article 16. Revocation, Suspension or Refusal of License.

§ 1.42. The commissioner may revoke or suspend any license issued, or refuse issuance of a license, on any of the following grounds:

1. Violation of any provisions of Chapter 8, Title 37.1 (§ 37.1-179, et seq.) of the Code of Virginia, or any applicable and valid rule or regulation made pursuant to such provisions;
2. Permitting, aiding or abetting the commission of an illegal act in a facility or institution licensed under these regulations.

3. Conduct or practices detrimental to the welfare of any resident of a facility or institution licensed under these regulations.

§ 1.43. Whenever the commissioner revokes, suspends or denies a license, the provisions of the Administrative Process Act (§ 9-6.14.1 et seq. of the Code of Virginia) shall apply.

§ 1.44. If a license is revoked or refused as herein provided, a new application for license may be considered by the commissioner when the conditions upon which such action was based have been corrected and satisfactory evidence of this fact has been furnished. In no event, however, may an applicant reapply for a license after the commissioner has refused or revoked a license until a period of six months from the effective date of such action has elapsed unless the commissioner in his sole discretion believes that there has been such a change in the conditions causing refusal of the prior application or revocation of the license as to justify the new application.

§ 1.45. When an appeal of the final decision of the commissioner to refuse to issue a license or to revoke or suspend a license is taken by the applicant pursuant to § 37.1-186 of the Code of Virginia, the six month period shall be extended until a final decision has been rendered on appeal. A new license may then be granted after proper inspection has been made and all provisions of § 37.1-179 et seq. of the Code of Virginia, and applicable rules and regulations made thereunder have been complied with and recommendations to such effect have been made to the commissioner upon the basis of an inspection by any authorized representative or agent of the department.

§ 1.46. Suspension of a license shall in all cases be for an indefinite time and the suspension may be lifted and rights under the license fully or partially restored at such time as the commissioner determines, upon basis of such an inspection, that the rights of the licensee appear to so require and the interests of the public will not be jeopardized by resumption of operation.

Article 17. Suppression of Unlawful Operations.

§ 1.47. If any facility or institution is being operated in violation of the provisions of § 37.1-179 et seq., of the Code of Virginia, or of any applicable rules and regulations made under such provisions, the commissioner, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful operation and to restrain, correct or abate such violation or violations. Such action or proceeding shall be instituted in the circuit court of the county or city where such institution, hospital or home is located, and such court shall have jurisdiction to enjoin such unlawful operation or such violation or violations.

Article 18. Penalty.

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§ 1.48. Any person violating any provision of § 37.1-179 et seq., of the Code of Virginia, or any applicable rule and regulation made under such provisions shall be guilty of a Class 3 misdemeanor, and each day, or part thereof, of continuation of any such violation shall constitute a separate offense.

Article 19. Reports.

§ 1.49. Each licensee shall file such reasonable reports and provide such reasonable information at such times as the department from time to time may require.

PART II. ORGANIZATION AND ADMINISTRATION.

Article 1. Governing Body.

§ 2.1. The residential facility shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

§ 2.2. The licensee shall clearly identify any subordinate board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee for the operation of the facility.

Article 2. Responsibilities of the Licensee.

§ 2.3. The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for the administrative direction of the facility.

§ 2.4. The licensee shall develop and implement written policies governing the licensee's relationship to the chief administrative officer that shall include, but shall not be limited to:

1. Annual evaluation of the performance of the chief administrative officer; and
2. Provision for the chief administrative officer to meet with the governing body or with the immediate supervisor to periodically review the services being provided, the personnel needs and fiscal management of the facility.

§ 2.5. The licensee shall review, develop and implement programs and administrative changes in accord with the defined purpose of the facility.

Article 3. Fiscal Responsibility.

§ 2.6. The facility shall have a documented plan of financing which gives evidence that there are sufficient funds to operate.

§ 2.7. A new facility shall with the initial application document funds or a line of credit sufficient to cover at least 90 days of operating expenses unless the facility is operated by a state or local government agency, board or commission.

§ 2.8. A new facility operated by a corporation, unincorporated organization or association, an individual or partnership shall submit with the initial application evidence of financial responsibility. This shall include:

1. A working budget showing projected revenue and expenses for the first year of operation; and
2. A balance sheet showing assets and liabilities.

§ 2.9. Facilities operated by state or local government agencies, boards and commissions shall submit with the initial application and with each renewal application evidence of financial responsibility. This shall include a working budget showing appropriated revenue and projected expenses for the coming year.

§ 2.10. Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships shall submit with each renewal application evidence of financial responsibility. This shall include:

1. A operating statement showing revenue and expenses for the past operating year;
2. A working budget showing projected revenue and expenses for the coming year;
3. A balance sheet showing assets and liabilities; and
4. A written assurance from the licensee that the documentation provided for in paragraphs one, two and three above presents a complete and accurate financial report reflecting the current fiscal condition of the facility.

§ 2.11. The facility shall provide additional evidence of financial responsibility as the licensing authority, at its discretion, may require.

Article 4. Internal Operating Procedures.

§ 2.12. There shall be evidence of a system of financial record keeping that is consistent with generally accepted accounting principles unless the facility is a state or local government operated program operating as required by the State Auditor of Public Accounts.

§ 2.13. There shall be a written policy, consistent with generally accepted accounting principles, for the collection and disbursement of funds unless the facility is a state or government operated program operating as required by the State Auditor of Public Accounts.

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§ 2.14. There shall be a system of financial record keeping that shows a separation of the facility's accounts from all other records.

Article 5. Insurance.

§ 2.15. A facility shall maintain liability insurance covering the premises and the facility's operations, including professional liability.

§ 2.16. There shall be liability insurance on vehicles operated by the facility.

Article 6. Bonding.

§ 2.17. Those members of the governing body and staff who have been authorized responsibility for handling the funds of the facility shall be bonded.

Article 7. Relationship to the Licensing Authority.

§ 2.18. The facility shall submit or make available to the licensing authority such reports and information as the licensing authority may require to establish compliance with these regulations and with applicable statutes and appropriate statutes.

§ 2.19. The governing body or its official representative shall notify the licensing authority within ten working days of:

1. Any changes in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program which will affect the types of services offered or the types of clients to be served.

§ 2.20. In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety and well-being of the clients in care, the facility shall notify the licensing authority of the conditions at the facility and the status of the clients in care as soon as possible.

Article 8. Participation of Clients in Research.

§ 2.21. The facility shall establish and implement written policies and procedures regarding the participation of clients as subjects in research that are consistent with Chapter 13 of Title 37.1 of the Code of Virginia unless the facility has established and implemented a written policy explicitly prohibiting the participation of clients as subjects of human research as defined by the above statute.

PART III. PERSONNEL.

Article 1. Health Information.

§ 3.1. Health information required by these regulations shall be maintained for all staff members.

Article 2. Initial Tuberculosis Examination and Report.

§ 3.2. Within 30 days of employment each staff member shall obtain an evaluation indicating the absence of tuberculosis in a communicable form except that an evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed by the Commonwealth of Virginia that requires such screening, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening.

§ 3.3. Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the type(s) of test(s) used and the test result(s).

§ 3.4. The statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

§ 3.5. The statement shall be filed in the individual's personnel record.

Article 3. Subsequent Evaluations for Tuberculosis.

§ 3.6. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms of four weeks duration or longer shall, within 30 days of exposure/development, receive an evaluation in accord with Part III, Article 2.

Article 4. Physical or Mental Health of Personnel.

§ 3.7. At the request of the licensee/administrator of the facility or the licensing authority a report of examination by a licensed physician shall be obtained when there are indications that the care of clients may be jeopardized by the physical, mental, or emotional health of a specific individual.

§ 3.8. Any individual who, upon examination by a licensed physician or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of clients in care or which would prevent the performance of duties:

1. Shall immediately be removed from contact with clients and food service to clients; and
2. Shall not be allowed contact with clients or food served to clients until the condition is cleared to the satisfaction of the examining physician as evidenced

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by a signed statement by the physician.

Article 5. Job Responsibilities.

§ 3.9. The chief administrative officer shall be responsible to the governing body for:

1. The overall administration of the program;
2. Implementation of all policies;
3. Maintenance of the physical plant; and
4. Fiscal management of the residential facility.

§ 3.10. The program director shall be responsible for the development and implementation of the programs and services offered by the residential facility.

§ 3.11. When a facility is licensed to care for 13 or more clients, a full time, qualified staff member shall fulfill the duties of the program director.

§ 3.12. If not provided by external resources, counseling and social services shall be provided by a staff member(s) qualified to provide such services.

§ 3.13. The residential care worker shall have direct responsibility for guidance and supervision of the residents to whom he is assigned. This shall include:

1. Overseeing the general welfare and safety of residents; and
2. Helping to meet the goals and objectives of any required service or treatment plan.

§ 3.14. Sufficient qualified relief staff shall be employed to maintain required staff/client ratios during:

1. Regularly scheduled time off of permanent staff; and
2. Unscheduled absences of permanent staff.

§ 3.15. Services of a licensed physician shall be available for treatment of clients as needed.

§ 3.16. Any nurse employed shall hold a current nursing license issued by the Commonwealth of Virginia.

Article 6. Staff Qualifications.

§ 3.17. Any person who assumes or is designated to assume the responsibilities of a staff position or any combination of staff positions employed at the facility shall meet the qualifications of that position(s) and shall fully comply with all applicable regulations for that position.

§ 3.18. When services or consultation are obtained on a contract basis they shall be provided by professionally qualified personnel.

Article 7. Personnel Records.

§ 3.19. A separate up-to-date personnel record shall be maintained for each staff member. The record shall include:

1. A complete employment application form or other written material providing:
 - a. Identifying information (name, address, phone number, social security number, and any names previously utilized);
 - b. Educational history; and
 - c. Employment history.
2. Written reference or notations of oral references;
3. Reports of required health examinations; and
4. Annual performance evaluations.

§ 3.20. Each personnel record shall be retained in its entirety for two years after employment ceases.

Article 8. Personnel Policies.

§ 3.21. The licensee shall have approved written personnel policies.

§ 3.22. Written personnel policies shall be readily accessible to each staff member.

§ 3.23. Each staff member shall demonstrate a working knowledge of those policies and procedures that are applicable to his specific staff position.

Article 9. Job Descriptions.

§ 3.24. For each staff position there shall be a written job description which shall as a minimum include:

1. The job title;
2. The duties and responsibilities of the incumbent;
3. The job title of the immediate supervisor; and
4. The minimum knowledge, skills and abilities required for entry level performance of the job.

§ 3.25. A copy of the job description shall be given to each person assigned to that position at the time of

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employment or assignment.

Article 10.

Volunteers and Students Receiving Professional Training.

§ 3.26. If a facility uses volunteers or students receiving professional training it shall develop written policies governing their selection and use. A facility that does not use volunteers shall have a written policy stating that volunteers shall not be utilized.

§ 3.27. The facility shall not be dependent upon the use of volunteers/students to ensure provision of basic services.

§ 3.28. The selection of volunteers/students and their orientation, training, scheduling, supervision and evaluation shall be the sole responsibility of designated staff members.

§ 3.29. Responsibilities of volunteers/students shall be clearly defined.

§ 3.30. All volunteers/students shall have qualifications appropriate to the services they render based on experience or orientation.

§ 3.31. Volunteers/students shall be subject to all regulations governing confidential treatment of personal information.

§ 3.32. Volunteers/students shall be informed regarding liability and protection of clients issues.

Article 11.

Staff Supervision and Evaluation.

§ 3.33. The facility shall implement written policies and procedures to provide staff supervision and evaluation that include provisions for:

1. Regularly scheduled supervision;
2. Evaluations which are based on job descriptions and performance criteria;
3. Annual written performance evaluations;
4. Discussions of staff evaluations with staff being evaluated;
5. Delineating strengths as well as weaknesses of the staff, and recommendations for improved performance;
6. Evaluation reports which are signed by both the employee and the supervisor who did the evaluation; and
7. Access by employees to their personnel files.

Article 12.

Staff Development.

§ 3.34. New employees, relief staff, volunteers and students shall within one calendar month of employment be given orientation and training regarding the objectives and philosophy of the facility, practices of confidentiality, other policies and procedures that are applicable to their specific positions, and their specific duties and responsibilities.

§ 3.35. Each new staff member shall receive the orientation and training required by § 3.34 prior to assuming sole responsibility for supervision of one or more clients.

§ 3.36. Provision shall be made for staff development activities, designed to update staff on items in § 3.34 and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be limited to, supervision and formal training.

§ 3.37. Participation of staff, volunteers and students in orientation, training and staff development activities shall be documented.

Article 13.

Staffing Patterns.

§ 3.38. No person shall be scheduled to work more than six consecutive days between rest days.

§ 3.39. Direct care staff who have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3.40. Direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3.41. Direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall not be on duty more than 16 consecutive hours except in emergencies when relief staff are not available.

§ 3.42. In buildings where 30 or more clients are sleeping there shall be no less than one direct care staff member awake and on duty during night hours.

§ 3.43. There shall be at least one direct care staff member awake on each floor and on each major wing of each floor where 30 or more clients are sleeping.

§ 3.44. When clients are away from the facility they shall be furnished with a telephone number(s) where appropriate person(s) may be reached.

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§ 3.45. Facilities other than those serving mentally retarded persons shall have clinical staffing patterns that are adequate and appropriate in relationship to:

1. The needs of the resident population being served.
2. The hours and days the facility operates;
3. Assessment, therapeutic, and follow-up functions;
4. Intensity and kinds of treatment;
5. Nature of resident disabilities; and
6. Carrying out appropriate patient care evaluations, peer review, and utilization review procedures.

§ 3.46. Social detoxification facilities shall be staffed by no less than two trained staff members on all working shifts.

§ 3.47. For those facilities serving mentally retarded adults, the following staff ratios shall be maintained:

1. For programs serving profoundly retarded adults there shall be one staff member for each four clients present during each shift. Regardless of the number of clients present, at least one staff member shall be present at all times.
2. For programs serving severely, moderately and mildly retarded adults there shall be at least one staff member for each twelve clients. If no clients are at home, a staff member shall be on call. If at least one resident is home during the day shift, at least one staff member shall be present unless planned for and indicated in the client's individualized service plan.

PART IV. RESIDENTIAL ENVIRONMENT.

Article 1. Buildings, Inspections and Building Plans.

§ 4.1. All buildings and installed equipment shall be inspected and approved by the local building official when required. This approval shall be documented by a Certificate of Use and Occupancy indicating that the building is classified for its proposed licensed purpose.

§ 4.2. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by:

1. Local fire authorities with respect to fire safety and fire hazards, except in state operated facilities;
2. State fire officials, where applicable; and
3. State or local health authorities, whose inspection and approval shall include:

- a. General sanitation;
- b. The sewage disposal system;
- c. The water supply;
- d. Food service operation; and
- e. Swimming pools.

Article 12.

Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications to Existing Buildings.

§ 4.3. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be submitted to and approved by the licensing authority and the following authorities, where applicable, before construction begins:

1. Local building officials;
2. Local fire departments;
3. Local or state health departments; and
4. Office of the State Fire Marshal.

§ 4.4. Documentation of the approvals required by § 4.3 shall be submitted to the licensing authority.

§ 4.5. All electrical, carpentry and plumbing work at the facility shall be performed under a proper permit from the building official if such a permit is required by the Uniform Statewide Building Code. Such work shall be inspected and approved by the building official, if required, and such work shall be performed by a licensed contractor.

Article 3. Heating Systems, Ventilation and Cooling Systems.

§ 4.6. Heat shall be evenly distributed in all rooms occupied by clients such that a temperature no less than 65°F is maintained, unless otherwise mandated by state or federal authorities.

§ 4.7. Natural or mechanical ventilation to the outside shall be provided in all rooms used by clients.

§ 4.8. All doors and windows capable of being used for ventilation shall be fully screened unless screening particular doors and windows is explicitly prohibited in writing by state or local fire authorities and those doors and windows are not used for ventilation.

§ 4.9. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by clients when the temperature in those rooms

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exceeds 85°F.

§ 4.10. Heating systems annually, prior to the heating season, shall be inspected, cleaned and have their filters changed by a contractor.

Article 4. Lighting.

§ 4.11. Artificial lighting shall be by electricity.

§ 4.12. All areas within buildings shall be lighted for safety.

§ 4.13. Lighting shall be sufficient for the activities being performed in a specific area.

§ 4.14. Operable flashlights or battery lanterns shall be available for each staff member on the premises between dusk and dawn for use in emergencies.

§ 4.15. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

Article 5. Sleeping Areas.

§ 4.16. Male residents shall have separate bedrooms from female residents.

§ 4.17. No more than four residents may share a bedroom or sleeping area except in detoxification facilities.

§ 4.18. No required path of travel to the bathroom shall be through another bedroom not under immediate control of the occupant of the first bedroom.

§ 4.19. When a facility is not subject to the Virginia Public Building Safety Regulations or the Uniform Statewide Building Code, residents who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be assigned sleeping quarters on ground level and provided with a planned means of effective egress for use in emergencies.

§ 4.20. In facilities licensed, established, constructed or reconstructed after the effective date of these regulations, sleeping quarters shall meet the following space requirements:

1. There shall not be less than 450 cubic feet of air space per person;
2. There shall not be less than 80 square feet of floor area in a bedroom accommodating only one person;
3. There shall not be less than 60 square feet of floor area per person in rooms accommodating two or more persons; and
4. All ceilings shall be at least 7-1/2 feet in height.

§ 4.21. Each resident shall have a separate, clean, comfortable bed equipped with mattress, pillow, blanket(s), bed linens, and, if needed a waterproof mattress cover.

§ 4.22. Bed linens shall be changed at least every seven days or more often, if needed.

§ 4.23. Each resident shall be assigned drawer space and closet space, or their equivalent, accessible to the sleeping area for storage of clothing and personal belongings.

§ 4.24. Smoking by any person shall be prohibited in sleeping areas.

§ 4.25. The facility shall provide for designated smoking areas.

Article 6. Plumbing and Toilet Facilities.

§ 4.26. All plumbing shall be maintained in good operating condition.

§ 4.27. There shall be an adequate supply of hot and cold running water available at all times.

§ 4.28. Precautions shall be taken to prevent scalding from running water. In all newly constructed facilities mixing faucets shall be installed.

§ 4.29. There shall be at least one toilet, one hand basin and shower/bath for every four clients in care.

Article 7. Privacy for Residents.

§ 4.30. Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy.

§ 4.31. Where bathrooms are not designated for individual use, bathtubs and showers shall provide for visual privacy for bathing by use of enclosures, curtains or other appropriate means.

§ 4.32. Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall readily open in case of fire or other emergency.

§ 4.33. Windows in sleeping and dressing areas shall provide for privacy.

Article 8. Living Rooms/Indoor Recreation Space.

§ 4.34. Each living unit shall contain a living room or an area for informal use for relaxation and entertainment. The furnishings shall provide a comfortable and home-like environment that is age-appropriate.

Article 9. Buildings and Grounds.

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§ 4.35. Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas shall be safe and properly maintained.

Article 10. Equipment and Furnishings.

§ 4.36. All furnishings and equipment shall be safe and suitable to the characteristics of the clients and the services provided.

§ 4.37. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which clients participate in programs.

§ 4.38. Meals shall be served in areas equipped with sturdy tables and benches or chairs.

§ 4.39. Dead bolt locks shall not be used on doors.

§ 4.40. The use of portable space heaters is prohibited unless specifically approved in writing by the local fire authority.

Article 11. Staff Quarters.

§ 4.41. A separate (private) bathroom and bedroom shall be provided for staff and their families when staff are required to be in the living unit for 24 hours or more except, that when there are no more than four persons, including staff and family of staff, residing in or on duty in the living unit, a private bathroom is not required for staff.

Article 12. Housekeeping and Maintenance.

§ 4.42. The interior and exterior of all buildings, including required locks and mechanical devices, shall be maintained in good repair.

§ 4.43. The interior and exterior of all buildings and grounds shall be kept clean and free of rubbish.

§ 4.44. All buildings shall be well-ventilated and free of stale, musty and foul odors.

§ 4.45. Buildings shall be kept free of flies, roaches, rats and other vermin.

§ 4.46. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

§ 4.47. All furnishings, linens and indoor and outdoor equipment shall be kept in good repair.

§ 4.48. Space shall be provided for safe storage of items such as first aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

§ 4.49. Lead based paint shall not be used on any surfaces and items with which clients and staff come in contact.

Article 13. Support Functions.

§ 4.50. Facilities shall provide for support functions including, but not limited to, food service, maintenance of buildings and grounds, and housekeeping.

§ 4.51. Clients shall not be solely responsible for support functions and shall not be assigned duties beyond their physical or mental capacity to perform.

Article 14. Firearms and Weapons.

§ 4.52. No firearms, pellet guns, air rifles or other weapons shall be permitted on the premises of the facility.

PART V. PROGRAMS AND SERVICES.

Article 1. Residential Services.

§ 5.1. There shall be evidence of a structured program of care that is designed to:

1. Meet the residents' physical needs;
2. Provide protection, guidance and supervision;
3. Promote a sense of security and self-worth; and
4. Meet the objectives of any required service plan.

§ 5.2. There shall be evidence of a structured daily routine that is designed to assure the delivery of program services.

§ 5.3. A daily activity log shall be maintained as a means of informing staff of significant happenings or problems experienced by residents including health and dental complaints or injuries.

§ 5.4. Entries in the daily activity log shall be signed or initialed by the person making the entry.

Article 2. Program Description and Annual Program Review.

§ 5.5. Each licensee shall develop a written comprehensive program description for the facility that includes the following elements:

1. A mission statement identifying the philosophy and global intentions of the facility;
2. A clear description of the characteristics and the needs of the population to be served; and

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3. A clear identification of the program components and services to be provided.

§ 5.6. Each licensee shall develop and implement a written evaluation system that is designed to provide specific utilization data and information regarding the extent to which program goals and objectives have been achieved.

§ 5.7. Each licensee shall review, at least annually, the program of the facility in the light of the population served and the objectives of the facility.

§ 5.8. Based on the written results of the annual program review, the licensee shall review, develop and implement indicated program and administrative changes in accord with the defined mission of the facility.

Article 3. Admission Criteria.

§ 5.9. Each facility shall have written criteria for admission that shall be made available to all parties when admission is being considered. Such criteria shall include:

1. A description of the population to be served;
2. A description of the types of services offered;
3. Criteria for acceptance into the program; and
4. Intake and admission procedures including necessary referral documentation.

§ 5.10. The facility shall accept and serve only those clients whose needs are compatible with those services provided through the facility.

§ 5.11. A facility shall not knowingly accept into care a resident whose health or behavior shall present a clear and present danger to the resident or others served by the facility.

Article 4. Documented Diagnostic Study of the Client.

§ 5.15. Acceptance for care shall be based on an evaluation of a documented diagnostic study of the client, except that this and the other regulations in this article shall not apply to detoxification facilities.

§ 5.13. At the time of admission to the program each client's record shall contain all of the elements of the documented diagnostic study of the client.

§ 5.14. The documented diagnostic study of the client shall include all of the following elements:

1. A formal request or written application for admission;

2. Identifying information documented on a face sheet (see § 5.15);

3. Physical examination as specified in § 5.59;

4. Medical history (see § 5.16);

5. A statement concerning the client's recent vocational and educational history and skills;

6. Results of any psychiatric or psychological evaluations of the client, if applicable;

7. Social and developmental summary (see § 5.17);

8. Reason for referral; and

9. Rationale for acceptance.

§ 5.15. Identifying information on a face sheet shall include:

1. Full name of client;
2. Last known residence;
3. Date of birth;
4. Birthplace;
5. Sex of client;
6. Racial and national background;
7. Social security number;
8. Religious preference;
9. Custody status indicating name and address of legal guardian, if any;
10. Names, addresses and telephone numbers for emergency contacts, parents, guardians or representatives of the referring agency, as applicable;
11. Criminal justice status, if any; and
12. Date of admission.

§ 5.16. A medical history shall include:

1. Serious illnesses and chronic conditions of the client's parents and siblings, if known;
2. Past serious illnesses, infectious diseases, serious injuries and hospitalizations;
3. Psychological, psychiatric and neurological examinations, if applicable;
4. Substance abuse history including onset of use,

types of substances, frequency of use, quantity of use, method of administration, if applicable.

5. Name, address and telephone number of client's physician(s), when information is available; and

6. Name, address and telephone number of client's dentist(s), when information is available.

§ 5.17. A social and developmental summary shall include:

1. Description of family structure and relationships;
2. Previous service history;
3. Current behavioral functioning including strengths, talents, and problems;
4. Documentation of need for services; and
5. Names, ages and sex of siblings.

Article 5.

Admission Procedures for Detoxification Facilities.

§ 5.18. Each detoxification facility shall in consultation with a licensed physician develop and implement written policies and procedures for intake screening including but not limited to:

1. Requirements for documenting identifying information on clients;
2. Requirements for assessing and documenting the medical history and initial physical condition of clients including as a minimum: (i) measurement of blood alcohol content; (ii) respiration rate; (iii) pulse rate; (iv) blood pressure; and (v) body temperature; and
3. Operational criteria for admission to the detoxification facility and for referral to other resources including operational criteria embodied in a written agreement with a local hospital(s) emergency room for referral and transportation of clients for emergency medical services when needed.

Article 6.

Community Relations.

§ 5.19. Opportunities shall be provided for the residents in a group living situation to participate in activities and to utilize resources in the community.

Article 7.

Work and Employment.

§ 5.20. Any assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the resident.

§ 5.21. The facility shall ensure that any resident

employed inside or outside the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with all applicable laws governing labor and employment.

§ 5.22. Any money earned through employment of a resident shall accrue to the sole benefit of that resident.

Article 8.

Grievance Procedures.

§ 5.23. The facility shall have written grievance procedures which shall be made known to clients upon admission.

Article 9.

Human Rights.

§ 5.24. The facility shall comply with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article 10.

Treatment Planning Policies and Procedures.

§ 5.25. Each licensee shall develop and implement written policies and procedures to be followed by staff in treatment planning, implementation and review.

Article 11.

Treatment Plan.

§ 5.26. A written individualized treatment plan, based on information derived from the documented diagnostic study of the resident and other assessments made by the facility, shall be developed and implemented for each resident, within 30 days of admission and placed in the client's master file, except that the requirements of this and other regulations in Part V, Articles 11 through 13 shall not apply to detoxification facilities.

§ 5.27. The following parties shall participate, unless clearly inappropriate, in developing the initial individualized treatment plan:

1. The resident;
2. The client's family or legally authorized representative;
3. The referring agency; and
4. Facility staff.

§ 5.28. The degree of participation, or lack thereof, of each of the parties listed in § 5.27 in developing the treatment plan shall be documented in the client's record.

§ 5.29. The individualized treatment plan shall include, but not necessarily be limited to, the following:

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1. A statement of the client's problems and current level of functioning including strengths and weaknesses, and corresponding treatment/training needs;

2. A statement of goals and a sequence of measurable objectives to meet the above identified needs;

3. A statement of services to be rendered and frequency of services to accomplish the above goals and objectives;

4. A statement identifying the individual(s) or organization(s) that will provide the services specified in the statement of services;

5. A statement of the timetable for the accomplishment of the client's goals and objectives; and

6. The estimated length of the client's need for services.

Article 12. Quarterly Progress Reports.

§ 5.30. There shall be a review and update of the client's individualized treatment plan by the staff and the assigned case coordinator. Such reviews and updates shall occur at a frequency appropriate to the rate and intensity of services provided, but no less than quarterly.

§ 5.31. Written progress summary reports completed quarterly shall be included in each client's record and shall include, but not be limited to:

1. Reports of significant incidents, both positive and negative;

2. Changes in client's social and family situation;

3. Summary of the client's social, emotional and physical development during the previous three months including a listing of any specialized services and any ongoing medications prescribed;

4. Documentation of the appropriateness of the client's involvement in the program;

5. Update of the appropriateness of the treatment goals;

6. Update of the client's involvement in all necessary services;

7. Update of contract with parent(s) or guardian (if applicable and legally permissible);

8. The evaluation of resident progress and resident outcomes; and

9. Tentative discharge plans.

Article 13. Annual Treatment Plan Review.

§ 5.32. At least annually the following parties shall participate, unless clearly inappropriate, in formally reviewing and rewriting the treatment plan based on the client's current level of functioning and needs:

1. The resident;

2. The client's family or legally authorized representative;

3. The referring agency; and

4. Facility staff.

§ 5.33. The degrees of participation, or lack thereof, of each of the parties listed in § 5.32 in reviewing and rewriting the treatment plan shall be documented in the client's record.

Article 14. Detoxification Services.

§ 5.34. Each detoxification facility shall in consultation with a licensed physician develop and implement written policies and procedures for detoxification services including but not limited to:

1. Continual monitoring of the physical and mental condition of the clients including monitoring and recording of the client's vital signs (respiration rate, pulse rate, blood pressure and body temperature) every four hours during the first 24 hours after admission and, if the vital signs are stable, monitoring and recording of the client vital signs every eight hours during the next 48 hours;

2. Therapeutic services directly related to and necessary for the detoxification process including but not limited to:

a. On going medical services if provided as an integral part of the detoxification program;

b. Referral to emergency medical services when appropriate;

c. Activities designed to motivate clients to continue treatment after detoxification;

d. Opportunities to participate in or be introduced to Alcoholics Anonymous and Narcotics Anonymous;

e. Individual and group counseling/support if provided as a part of the detoxification program; and

f. Case management including referral and follow-up for further residential or outpatient treatment.

Article 15. Client Records.

§ 5.35. A separate case record on each client shall be maintained and shall include all correspondence relating to the care of that client.

§ 5.36. Each case record shall be kept up to date and in a uniform manner through an ongoing case review. This case review shall include a determination of whether client records contain all the service documentation required by the program and applicable regulations and standards.

§ 5.37. Case records shall be maintained in such manner as to be accessible to staff for use in working with the client.

Article 16. Confidentiality of Client Records.

§ 5.38. The facility shall make information available only to those legally authorized to have access to that information under federal and state laws.

§ 5.39. There shall be written policy and procedures to protect the confidentiality of records which govern acquiring information, access, duplication, and dissemination of any portion of the records. The policy shall specify what information is available to the client.

Article 17. Suspected Abuse or Neglect.

§ 5.40. Written policies and procedures related to abuse and neglect shall be distributed to all staff members. These shall include:

1. Acceptable methods for behavior management of clients;
2. Procedures for handling accusations against staff; and
3. Procedures for promptly referring suspected cases of abuse and neglect to the local protective service unit and for cooperating with the unit during any investigation.

§ 5.41. The resident's record shall include;

1. Date and time the suspected abuse or neglect occurred;
2. Description of the incident;
3. Action taken as a result of the incident; and

4. Name of the person to whom the report was made at the local department.

Article 18. Storage of Confidential Records.

§ 5.42. Records shall be kept in areas which are accessible only to authorized staff.

§ 5.43. When not in use, active records shall be stored in a locked metal file cabinet or other locked metal compartment.

§ 5.44. When not in use, closed records shall be kept in a locked compartment or in a locked room.

Article 19. Disposition of Client Records.

§ 5.45. Client records shall be kept in their entirety for a minimum of three years after the date of the discharge unless otherwise specified by state or federal requirements.

§ 5.46. Permanent information shall be kept on each client even after the disposition of the client's record unless otherwise specified by state or federal requirements. Such information shall include:

1. Client's name;
2. Date and place of client's birth
3. Dates of admission and discharge; and
4. Name and address of legal guardian, if any.

§ 5.47. Each facility shall have a written policy to provide for the disposition of records in the event the facility ceases operation.

Article 20. Service Coordination.

§ 5.48. Each facility shall develop and implement written policies and procedures for case coordination that shall provide for the assignment of a case coordinator to each client.

§ 5.49. The duties of the case coordinator shall include:

1. Serving as the liaison between the program and the client's family or legally authorized representative;

§ 2. Providing ongoing assessment of the client's general needs through the use of program reports and evaluation information provided by each service;

3. Ensuring systematic and inclusive individualized treatment plans, when required, through monitoring the continuity and range of services delivered;

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4. Developing and reviewing the specific individualized treatment plans with additions and deletions in service delivery on a quarterly basis;

5. Providing coordination, linkage, and referral to all direct and generic services within the program and in the community;

6. Providing coordination and referral at the time of discharge;

7. Identifying the individual or agency responsible for follow-up and aftercare; and

8. Documenting follow-up when appropriate.

Article 21. Discharge and Case Closure.

§ 5.50. Each facility shall develop and implement written policies and procedures regarding discharge and case closure including:

1. Written criteria for a client's completion of the program; and

2. Conditions under which a client may be discharged before completion of the program.

§ 5.51. No later than 30 days after discharge a comprehensive discharge summary shall be placed in the client's record and it shall contain:

1. Client's admission date;

2. Client's discharge date;

3. Name of client's case coordinator, if assigned;

4. Information concerning currently prescribed medication including when and why it was prescribed, the dosage, and whether it is to be continued;

5. Summary of the client's progress since admission;

6. Reasons for discharge; and

7. Follow-up and referral plans and requirements.

Article 22. Health Care Procedures.

§ 5.52. Facilities shall have written policies and procedures for the prompt provision of emergency medical or dental services.

§ 5.53. A well stocked first aid kit, approved by the local Rescue Squad or Red Cross, shall be maintained and readily accessible for minor injuries and medical emergencies.

§ 5.54. At all times that staff are required to be present there shall be at least one staff member on the premises who has received within the past three years a basic certificate in standard first aid (Multimedia, Personal Safety, or Standard First Aid Modular) issued by the American Red Cross or other recognized authority except that this requirement does not apply during those hours when a licensed nurse or certified emergency medical technician (EMT) is present at the facility.

§ 5.55. At all times that staff are required to be present there shall be at least one staff member on the premises who has received a current certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority.

§ 5.56. Within ninety days after employment each direct care staff member of a detoxification facility shall successfully complete a training course for social setting detoxification workers approved by the department.

§ 5.57. Except in detoxification facilities the following written information concerning each client shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician or dentist to be notified;

2. Name, address, and telephone number of relative or other person to be notified;

3. Medical insurance company name and policy or Medicaid number;

4. Information concerning:

a. Use of medication;

b. Medication allergies;

c. Any history of substance abuse; and

d. Significant medical problems.

5. Written consent authorizing the facility to transport the client to receive emergency medical or dental services; and

6. Written permission for emergency medical or dental care.

Article 23. Physical Examinations for Clients.

§ 5.58. Each client accepted for services in residential facilities other than detoxification facilities shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the program, except that the report of an examination within the preceding 12 months shall be

acceptable if a client transfers from one residential facility licensed, certified or accredited by a state or federal agency to another, or a physical examination shall be conducted within 30 days after admission if the client is admitted on an emergency basis and a report of a physical examination is not available.

§ 5.59. Each physical examination report shall include:

1. General physical condition, including documentation of apparent freedom from communicable diseases including tuberculosis;
2. Allergies, chronic conditions, and handicaps, if any;
3. Restriction of physical activities, if any;
4. Recommendations for further treatment, immunizations, and other examinations indicated;
5. The date of the physical examination; and
6. The signature of a licensed physician, the physician's designee, or an official of a local health department.

Article 24.

Use of Tobacco Products and Other Substances.

§ 5.60. No client under age 16 shall be permitted to purchase, possess or use tobacco products.

§ 5.61. Each facility shall have a written policy addressing the use of alcoholic beverages.

§ 5.62. Each facility shall have a written policy addressing the possession or use of illegal drugs.

Article 25. Medication.

§ 5.63. As part of the data collected at admission to the program a drug use profile shall be developed for each client which includes:

1. History of prescription and nonprescription drugs being taken at the time of admission and for the previous six months.
2. Drug allergies, idiosyncratic and adverse drug reactions.
3. Ineffective medication therapy.

§ 5.64. There shall be written policies and procedures regarding the storage, delivery and administration of prescription and nonprescription medications used by clients. The policies and procedures shall include, require and provide for:

1. All medications shall be stored in a securely locked

storage area and properly labeled.

2. In accordance with Virginia Code § 54-524.65, Drug Control Act, prescription medications shall only be administered by a physician, dentist, pharmacist, nurse or medication technician.

3. In accordance with Virginia Code § 54-524.65, Drug Control Act, prescription medications may be delivered by any designated employee for self-administration by the client under the supervision of the program director and only by the order of a physician. The designated employee must have successfully completed a medication assistance training program endorsed by the Virginia Board of Nursing.

4. Only those clients judged by the program staff to have an adequate level of functioning shall be allowed to self-administer nonprescription medication and this shall be documented in the client's record.

5. Controlled substances brought into the program by clients shall not be administered (including self-administration) unless they are identified and accompanied by a physician's or dentist's written order.

6. Procedures for documenting the administration of medication, medication errors, and drug reactions, obtaining emergency medical assistance, and disposal of medications.

7. Documentation of drugs prescribed following admission shall include:

- a. The date prescribed;
- b. Drug product name;
- c. Dosage;
- d. Strength;
- e. Route;
- f. Schedule;
- g. Dates medication discontinued or changed;
- h. Total supply of medication prescribed; and
- i. Signature of physician ordering medication.

8. Each program shall have written policies and procedures regarding the review of medication therapy which shall insure and provide for a quarterly review of the individual client's therapy plan by a physician (in conjunction with program staff when needed) shall include:

- a. Documentation of the need for continued use of

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medication therapy including multiple drug usage, with evidence that treatment strategies other than medication therapy are under consideration.

b. Documentation of all contraindications and unusual effects for specific clients (where appropriate).

9. The attending physician shall be notified immediately of drug reactions or medication errors.

10. Procedures for documenting that clients or a legally authorized representative are informed of the potential side effects of prescribed medication.

11. All staff who supervise clients shall be informed of any known side effects of medication clients use and the symptoms of the effect.

Article 26. Nutrition.

§ 5.65. Provision shall be made for each client to have three nutritionally balanced meals daily.

§ 5.66. Menus shall be planned at least one week in advance.

§ 5.67. The menus, including any deviations, shall be kept on file for at least two months.

§ 5.68. The daily diet for residents shall be based on the generally accepted "Four Food Groups" system of nutrition planning. (The Virginia Polytechnic Institute and State University Extension Services is available for consultation)

Article 27. Clothing.

§ 5.69. Provision shall be made for each resident to have his own adequate supply of clean, comfortable, well fitting clothes and shoes for indoor and outdoor wear.

§ 5.70. The resident shall be allowed to take personal clothing when the resident leaves the facility.

Article 28. Behavior Management.

§ 5.71. Each facility shall implement written policies and procedures concerning behavior management that are directed toward maximizing the growth and development of the individual. These policies and procedures shall:

1. Emphasize positive approaches;
2. Define and list techniques that are used and available for use in the order of their relative degree of intrusiveness or restrictiveness;
3. Specify the staff members who may authorize the

use of each technique;

4. Specify the processes for implementing such policies and procedures;

5. Specify the mechanism for monitoring and controlling the use of behavior management techniques; and

6. Specify the methods for documenting their use.

§ 5.72. In the list required by § 5.71-1 of techniques that are used and available for use, intrusive aversive therapy if allowed shall be designated as the most intrusive technique.

§ 5.73. A written behavior management plan utilizing intrusive aversive therapy shall not be implemented with any resident until the Local Human Rights Committee has determined:

1. That the resident or his authorized representative has made an informed decision to undertake the proposed intrusive aversive therapy, and in the case of a minor who is capable of making an informed decision, that the concurrent consent of the parent has been obtained;

2. That the proposed intrusive aversive therapy has been recommended by a licensed clinical psychologist;

3. That the facility has satisfactorily demonstrated that the proposed intrusive aversive therapy plan does not involve a greater risk of physical or psychological injury or discomfort to the resident than the behaviors that the plan is designed to modify;

4. That there is documentation that a representative sample of less intrusive behavior management procedures have been tried without success;

5. That more appropriate behaviors are being positively reinforced;

6. That a licensed physician has certified that in his opinion, the intrusive aversive procedure will not endanger the health of the resident;

7. That the aversive treatment technique is measurable and can be uniformly applied;

8. That the aversive treatment program specifies the behavioral objective, the frequency of application of the aversive technique, the time limit for both application of the technique and the overall length of the program, and the collection of behavioral data to determine the program's effectiveness;

9. That the program is developed, implemented and monitored by staff professionally trained in behavior modification programming, and is witnessed by an

approved professionally trained staff person;

§ 5.74. The Local Human Rights Committee having made the determinations required by § 5.73 shall then approve the proposed intrusive aversive therapy plan for a period not to exceed 90 days. The plan shall be monitored through unannounced visits by a designated human rights advocate. In order for the plan to be continued, the Local Human Rights Committee shall again make the determinations required in § 5.73.

§ 5.75. The advocate or regional advocate shall be informed daily of all applications of a noxious stimulus in an approved intrusive aversive therapy program.

§ 5.76. The resident subjected to intrusive aversive therapy procedures and the advocate or regional advocate shall be given an opportunity to obtain an independent clinical and Local Human Rights Committee review of the necessity and propriety of their use at any time.

Article 29.

Prohibited Means of Punishment.

§ 5.77. The following methods of punishment, whether spontaneous or a deliberate technique for effecting behavioral change or part of a behavior management program, shall be prohibited:

1. Deprivation of drinking water or nutritionally balanced snacks, or meals;
2. Prohibition of contacts and visits with attorney, probation officer, or placing agency representative;
3. Prohibition of contacts and visits with family or legal guardian except where specifically permitted by other applicable regulations;
4. Delay or withholding of incoming or outgoing mail except where specifically permitted by other applicable regulations;
5. Any action which is humiliating, degrading, harsh, or abusive;
6. Corporal punishment as defined in these regulations;
7. Subjection to unclean and unsanitary living conditions;
8. Deprivation of opportunities for bathing and access to toilet facilities;
9. Deprivation of health care including counseling; and
10. Administration of laxatives, enemas, or emetics.

Article 30.

Chemical or Mechanical Restraints.

§ 5.78. The use of mechanical or chemical restraints is prohibited unless such use is specifically permitted by other applicable regulations.

Article 31.

Physical Restraint.

§ 5.79. A resident may be physically restrained only when the resident's uncontrolled behavior would result in harm to the resident or others and when less restrictive interventions have failed.

§ 5.80. The use of physical restraint shall be only that which is minimally necessary to protect the resident or others.

§ 5.81. If the use of physical restraint is unsuccessful in calming and moderating the resident's behavior the resident's physician, the rescue squad, the police or other emergency resource shall be contacted for assistance.

§ 5.82. Any application of physical restraint shall be fully documented in the resident's record as to date, time, staff involved, circumstances, reasons for use of physical restraint, extent of physical restraint used, the results of physical restraint and the disposition of the incident requiring physical restraint.

Article 32.

Seclusion.

§ 5.83. Seclusion of a resident is a room with the door secured in any manner that will prohibit the resident from opening it shall be prohibited unless carried out in compliance with applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article 33.

Time-out Procedures.

§ 5.84. Time-out procedures may only be used at times and under conditions specified in the facility's disciplinary or behavior management policies.

§ 5.85. When a resident is placed in a time-out room, the room shall not be locked nor the door secured in any manner that will prohibit the resident from opening it.

§ 5.86. Any resident in a time-out room shall be able to communicate with staff.

§ 5.87. The use of time-out procedures shall not be used for periods longer than 15 consecutive minutes.

§ 5.88. Written documentation shall be maintained verifying that each resident placed in a time-out room has been checked by staff at least every 15 minutes.

§ 5.89. A resident placed in a time-out room shall have

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bathroom privileges according to need.

§ 5.90. If a meal is scheduled while a resident is in time-out, the meal shall be provided to the resident at the end of the time-out procedure.

PART VI. DISASTER OR EMERGENCY PLANS.

Article 1. Disaster or Emergency Procedures.

§ 6.1. Established written procedures shall be made known to all staff and clients, as appropriate for health and safety, for use in meeting specific emergencies including:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuations

Article 2. Written Fire Plan.

§ 6.2. Each facility with the consultation and approval of the appropriate local fire authority shall develop a written plan to be implemented in case of a fire at the facility.

§ 6.3. Each fire plan shall address the responsibilities of staff and clients with respect to:

1. Sounding of fire alarms;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, evacuation of clients with special needs (i.e. deaf, blind, multi-handicapped) and checking to ensure complete evacuation of the building(s);
3. A system for alerting fire fighting authorities;
4. Use, maintenance and operation of fire fighting and fire warning equipment;
5. Fire containment procedures including closing of fire doors, fire windows or other fire barriers;
6. Posting of floor plans showing primary and secondary means of egress; and
7. Other special procedures developed with the local fire authority.

§ 6.4. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations determined by the appropriate local fire authority.

§ 6.5. The written fire plan shall be reviewed with the local fire authority at least annually and updated, if necessary.

§ 6.6. The procedures and responsibilities reflected in the written fire plan shall be made known to all staff and residents.

Article 3. Posting of Fire Emergency Phone Number.

§ 6.7. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone in each building in which clients participate in programs.

Article 4. Portable Fire Extinguishers.

§ 6.8. Portable fire extinguishers shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, on each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating.

§ 6.9. Fire extinguishers shall be mounted on a wall or post where they are clearly visible and so that the top is not more than five feet from the floor except that if a fire extinguisher weighs more than 140 pounds it shall be installed so that the top is not more than 2-1/2 feet from the floor. They shall be easy to reach and remove and they shall not be tiled down, locked in a cabinet, or placed in a closet or on the floor except that where extinguishers are subject to malicious use, locked cabinets may be used provided they include a means of emergency access.

§ 6.10. All required fire extinguishers shall be maintained in operable condition at all times.

§ 6.11. Each fire extinguisher shall be checked by properly oriented facility staff at least once each month to ensure that the extinguisher is available and appears to be in operable condition. A record of these checks shall be maintained for at least two years and shall include the date and initials of the person making the inspection.

§ 6.12. Each fire extinguisher shall be professionally maintained at least once each year. Each fire extinguisher shall have a tag or label securely attached which indicates the month and year the maintenance check was last performed and which identifies the company performing the service.

Article 5. Smoke Alarms.

§ 6.13. Smoke detectors or smoke detection systems shall be installed and maintained in the facility in accordance

with state and local fire/building code requirements. In those buildings where no such code requirements apply, the facility shall provide at least one approved and properly installed smoke detector:

1. In each hallway;
2. At the top of each interior stairway;
3. In each area designated for smoking;
4. In or immediately adjacent to each room with a furnace or other heat source;
5. In each additional location directed by the local building official, the local fire authority, or the state fire authority, or both.

§ 6.14. Each smoke detector shall be maintained in operable condition at all times.

§ 6.15. If the facility is provided with single station smoke detectors, each smoke detector shall be tested by properly oriented staff at least once a month and if it is not functioning, it shall be restored to proper working order. A record of these tests shall be maintained for at least two years and shall include the date and initials of the person making the test.

§ 6.16. If the facility is provided with an automatic fire alarm system, the system shall be inspected by a qualified professional firm at least annually. A record of these inspections shall be maintained for at least two years and shall include the date and the name of the firm making the inspections.

Article 6. Fire Drills.

§ 6.17. At least one fire drill (the simulation of fire safety procedures included in the written fire plan) shall be conducted each month in each building at the facility occupied by clients.

§ 6.18. Fire drills shall include, at a minimum:

1. Sounding of fire alarms;
2. Practice in building evacuation procedures;
3. Practice in alerting fire fighting authorities;
4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other simulated fire safety procedures as may be required by the facility's written fire plan.

§ 6.19. During any three consecutive calendar months, at least one fire drill shall be conducted during each shift.

§ 6.20. False alarms shall not be counted as fire drills.

§ 6.21. The facility shall designate at least one staff member to be responsible for conducting and documenting fire drills.

§ 6.22. A record shall be maintained on each fire drill conducted and shall include the following information:

1. Building in which the drill was conducted;
2. Date of drill;
3. Time of drill;
4. Amount of time to evacuate building;
5. Specific problems encountered:
6. Specific tasks completed:
 - a. Doors and windows closed,
 - b. Head count,
 - c. Practice in notifying fire authority, and
 - d. Other.
7. Summary; and
8. Signature of staff member responsible for conducting and documenting the drill.

§ 6.23. The record for each fire drill shall be retained for two years subsequent to the drill.

§ 6.24. The facility shall designate a staff member to be responsible for the fire drill program at the facility who shall:

1. Ensure that fire drills are conducted at the times and intervals required by these regulations and the facility's written fire plan;
2. Review fire drill reports to identify problems in the conduct of fire drills and in the implementation of the requirements of the fire plan;
3. Consult with local fire authorities, as needed, and plan, implement and document training or other actions taken to remedy any problems found in the implementation of the procedures required by the written fire plan; and
4. Consult and cooperate with the local fire authority to plan and implement an educational program for facility staff and residents on topics in fire prevention and fire safety.

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Training in Fire Procedures.

§ 6.25. Each new staff member shall be trained in fire procedures and fire drill procedures within seven days after employment.

§ 6.26. Each new staff member shall be trained in fire procedures and fire drill procedures prior to assuming sole responsibility for the supervision of one or more clients.

§ 6.27. Residents shall be oriented as to fire procedures at time of admission.

Article 8. Poison Control.

§ 6.28. The telephone number of a Regional Poison Control Center shall be posted on or next to at least one nonpay telephone in each building in which clients participate in programs.

§ 6.29. At least one 30cc bottle of Syrup of Ipecac shall be available on the premises of the facility for use at the direction of the Poison Control Center or physician.

Article 9. Use of Vehicles and Power Equipment.

§ 6.30. Any transportation provided for or used by clients shall be in compliance with state and federal laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles; and
3. Licensure of drivers.

§ 6.31. There shall be written safety rules for transportation of clients, including handicapped clients appropriate to the population served.

§ 6.32. There shall be written safety rules for the use and maintenance of vehicles and power equipment.

Article 10. Control of Deviant or Criminal Behavior.

§ 6.33. The person in charge of the facility shall take all reasonable precautions to assure that no resident is exposed to, or instigates such behavior as might be physically, emotionally or morally injurious to himself or to another person.

§ 6.34. Any incident relating to the operation of the facility which results in serious injury or death shall be investigated by the person in charge of the facility, appropriately reported to local authorities, and immediately reported to the department. A written report of the incident shall be made and kept on file by the facility and made available for review by authorized

personnel.

PART VII. RESIDENTIAL METHADONE TREATMENT FACILITIES.

Article 1. Applicability.

§ 7.1. Compliance with the regulations in Part VII is required for the licensure of residential methadone treatment facilities. These requirements are in addition to those requirements in Parts II through VI when treatment facilities utilize the narcotic drug methadone as part of a residential substance abuse treatment and rehabilitation program because such a program requires more stringent admission procedures and criteria, drug administration procedures, record content and procedures, and services provided.

Article 2. Definitions.

§ 7.2. The following words and terms when used in this part, shall have the following meaning unless the context clearly indicates otherwise:

"Detoxification treatment using methadone" means the administering or dispensing of methadone as a substitute narcotic drug in decreasing doses to reach a drug free state in a period not to exceed 21 days in order to withdraw an individual who is dependent on heroin or other morphine-like drug from the use of these drugs. A repeat episode of detoxification may not be initiated until one week after the completion of the previous detoxification.

"Licensed methadone treatment facility" means a person, partnership, governmental agency, corporation or association, licensed by the commissioner to operate a methadone treatment program.

"Maintenance treatment using methadone" means the continued administering or dispensing of methadone, in conjunction with provision of appropriate social and medical services, at relatively stable dosage levels for a period in excess of 21 days as an oral substitute for heroin or other morphine-like drugs, for an individual dependent on heroin.

"Methadone treatment program" means a person or organization furnishing a comprehensive range of services using methadone for the detoxification or maintenance treatment of narcotic addicts, conducting initial evaluation of patients and providing ongoing treatment at a specified location or locations.

"State Methadone Authority" means the Commissioner of the Department or his designee.

Article 3.

Program Objectives.

§ 7.3. The objectives of a methadone treatment facility shall be:

1. To enable drug dependent patients to become productive citizens;
2. To promote the eventual withdrawal of patients from drug dependency;
3. To protect patients and society from any harmful effects of drug misuse;
4. To evaluate the effects of methadone in the treatment and rehabilitation of drug dependent patients; and
5. To promote the safe and controlled use of methadone according to sound medical practice and to prevent abuse or misuse of methadone.

Article 4. Program and Services.

§ 7.4. A licensed methadone treatment facility shall include facilities, resources and staff adequate to provide and shall provide or make appropriate arrangements for providing the following services:

1. Medical care; a written agreement with a hospital for the purpose of providing necessary emergency, inpatient, or ambulatory care for facility patients must be provided;
2. Individual or group therapy and family therapy;
3. Vocational rehabilitation services;
4. Educational services;
5. Counseling;
6. Other services should include social services and recreational therapy; and
7. Urinalysis. Random urine samples shall be collected from each prospective methadone resident for analysis as part of the admission procedure to the program. Upon active methadone residents, at least eight additional random urinalysis shall be performed during the first year in maintenance treatment and at least quarterly random urinalysis shall be performed on each resident in maintenance treatment for more than one year, except that a random urinalysis shall be performed monthly on each resident who receives a six-day supply of take-home medication. Specimens shall be collected from each resident in a manner that minimizes falsification. Urine collected shall be qualitatively analyzed for the morphine radical, other opiates, cocaine, methadone, barbiturates,

amphetamines, and quinine, as well as other drugs as indicated. The results of this urinalysis is necessary for the overall treatment planning for individual residents receiving services and shall not be used in a punitive manner except to reduce or discontinue take home privileges.

Article 5. Admissions.

§ 7.5. A patient may be admitted to a licensed facility only upon approval of the facility director following evaluation and examination.

§ 7.6. Each person selected as a patient for a maintenance program regardless of age, shall be determined by a facility physician to be currently physiologically dependent upon a narcotic drug and must have first become dependent at least one year prior to admission to a maintenance program except that:

1. A person who has resided in a penal or chronic care institution for one month or longer may be admitted to methadone maintenance treatment within 14 days prior to release or discharge or within three months after release from such an institution without evidence to support findings of physiological dependence, provided the person would have been eligible for admission prior to incarceration or institutionalization. Documented evidence of the prior residence in a penal or chronic care institution and evidence of all other findings and the criteria used to determine such findings shall be recorded in the patient's record by the admitting physician or by program personnel supervised by the admitting physician.
2. Pregnant patients, regardless of age or prior addiction history, who are otherwise eligible for methadone maintenance treatment, may be admitted to a maintenance regimen provided the medical director of the facility certifies in his judgment that such treatment is medically justified. Notification and justification for this patient's admission to methadone treatment will be communicated to the State Methadone Authority. Within six weeks after termination of the pregnancy, the physician shall enter an evaluation of the patient's treatment into the patient's record indicating whether she should remain in a maintenance treatment or be detoxified. Pregnant patients shall be given the opportunity for prenatal care either by the methadone program or by referral to appropriate health care providers. This shall be documented in the patient's record.
3. A patient who has been treated and subsequently detoxified from methadone maintenance treatment may be readmitted to methadone maintenance treatment without evidence to support findings of current physiologic dependence up to six months after discharge provided that prior methadone maintenance

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treatment of six months or more is documented from the program attended and that the admitting program physician, in his reasonable clinical judgment, finds readmission to methadone maintenance treatment to be medically justified.

§ 7.7. The safety and effectiveness of methadone when used in the treatment of patients under 18 years of age has not been proved by adequate clinical study. Special procedures are, therefore, necessary to assure that patients under age 16 years will not be admitted to maintenance treatment and that patients between 16 and 18 years of age be admitted to maintenance treatment only under limited conditions.

§ 7.8. Patients between 16 and 18 years of age who are admitted and under treatment in approved programs on the effective date of these regulations may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a methadone treatment program unless a parent, legal guardian, or legally authorized representative signs form FD-2635, "Consent to Methadone Treatment". Methadone maintenance treatment of new patients between the age of 16 and 18 years will be permitted only with (i) a documented history of two or more unsuccessful attempts at detoxification, (ii) a documented history of dependence on heroin or other morphine-like drugs beginning one year or more prior to application for treatment, and (iii) approval of such action by the State Methadone Authority. No patient under age 16 may be continued or started on maintenance treatment, but these patients may be detoxified and retained in the program in a drug-free state for follow-up and aftercare. Persons under 16 years of age may be admitted to methadone maintenance treatment in certain rare cases if prior approval is obtained from both the Food and Drug Administration and State Methadone Authority.

§ 7.9. Patients under age 18 who are not admitted to maintenance treatment may be detoxified. Detoxification may not exceed three weeks. A repeat episode of detoxification may not be initiated until four weeks after the completion of the previous detoxification.

§ 7.10 The following patients shall not be admitted to a licensed methadone program without prior approval of the State Methadone Authority:

1. Patients with serious concomitant physical illness may be included in methadone maintenance treatment only when comprehensive medical care is available. Such patients require careful observation for any adverse effects of methadone and interactions with other medications. The physician should promptly report adverse effects and evidence of interactions to the Food and Drug Administration.
2. Psychotic patients may be included in methadone maintenance treatment when adequate psychiatric consultation and care is available. Administration of

concomitant psychotropic agents requires careful observation for possible drug interaction. Such occurrences should be promptly reported to the Food and Drug Administration.

Medical directors who intend to include in their program patients in categories one and two should so state in their protocols and give assurances of appropriate precautions.

§ 7.11. In exercising his professional judgment, the medical director, clinical director, or supervising clinician may refuse a particular person admission to treatment even if that person meets the admission requirements. The exclusion of the patient from treatment and the justification for such action shall be documented in the person's intake record by the medical director, clinical supervisor, or supervising clinician. However, it is the responsibility of the facility to recommend alternative treatment referrals for persons who have been denied admission.

§ 7.12. On admission to a licensed methadone facility, and periodically thereafter, each patient must provide information and data or submit to evaluations including, but not limited to the following:

1. Social history, including:
 - a. Age;
 - b. Sex;
 - c. Educational history;
 - d. Employment history;
 - e. History of substance abuse of all types;
 - f. Prior substance abuse treatment history;
 - g. Current legal problems, if any;
 - h. Criminal history, if any; and
 - i. Contact person to notify in case of emergency;
2. Medical history and history of psychiatric illness;
3. Formal psychiatric examination of patients with a prior history of psychiatric treatment and in those whom there is a question of psychosis or competence to give informed consent;
4. Assessment of the degree of physical dependence on, and psychic craving for, narcotics and other drugs;
5. Evaluation of attitudes and motivations for participation in the program;
6. Physical examination and any laboratory or other

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special examinations indicated in the judgment of the medical director;

7. Tuberculin test;
8. Serologic test for syphilis;
9. Bacteriological culture for gonorrhea;
10. Recommended lab exam:
 - a. Complete blood count;
 - b. Routine and microscopic urinalysis;
 - c. Liver functions profile;
 - d. When tuberculin test is positive, chest x-ray;
 - e. Australian antigen Hb ag. Testing (Haa testing);
 - f. When clinically indicated, an EKG; and
 - g. Pregnancy test for females and a pap smear when appropriate.

§ 7.13. Each person shall be informed concerning the possible risks associated with the use of methadone. Participation in the program shall be voluntary. The facility director shall insure that all the relevant facts concerning the use of methadone are clearly and adequately explained to the patient and that all patients (including those under 18) shall sign, with knowledge and understanding of its contents, the first part of Form FD 2635 "Consent to Methadone Treatment". Parents or guardians of patients under age 18 shall also sign the second part of this form. Form 2635 shall be signed again for each readmission if a two-week lapse in treatment has preceded the readmission.

§ 7.14. Each patient shall be provided with a written statement describing the program. The patient shall sign a statement to the effect that he accepts and understands the program and will:

1. Present himself daily for medication. Such medication shall be taken orally in front of a licensed practitioner (registered nurse, licensed practical nurse, physician, or pharmacist);
2. Behave according to designated treatment requirements;
3. Attend such classes, group session or interviews to which he is assigned;
4. Not use illicit substances; and
5. Give a urine sample in front of an attendant regularly, when requested.

Article 6. Dismissal From Program.

§ 7.15. Patients may be dismissed from the program at the discretion of the director when he determines that the program or the patient's treatment will be adversely affected by the conduct of the patient, such as:

1. Continued illegal use of narcotics or other drugs;
2. Conviction of a misdemeanor or felony;
3. Failure to cooperate with the program;
4. Repeated failure to keep appointments in the treatment program;
5. Repeated failure to take medication as directed; or
6. Conduct which adversely affects the patient, other patients or the program.

§ 7.16. Patients who are dismissed from the program for misconduct may appeal the dismissal decision through a formal appeals procedure that has been developed by the program. Decisions of these appeal proceedings shall be recorded in the patient's records.

§ 7.17. Before leaving the program, a patient shall be given the opportunity for detoxification from methadone according to a plan approved by the medical director of the program.

§ 7.18. A patient from one methadone facility shall be properly identified before starting treatment at any other methadone facility. A letter of transfer from the medical director, including a description and photograph of the patient, summary of pertinent clinical information, shall be received by the receiving methadone facility within two weeks of the patient receiving methadone. A confirming telephone conversation with a licensed practitioner concerning the current dosage, particular medical problems and reason for transfer shall be documented in the patient's chart prior to his receiving methadone.

§ 7.19. Consideration may be given to discontinuing methadone for participants who have maintained satisfactory adjustment over an extended period of time. In such cases, follow-up evaluation is to be obtained periodically.

Article 7. Dosage and Dosage Administration.

§ 7.20. All take-home doses of methadone or oral administration in liquid form shall be prepared under the immediate supervision of a licensed pharmacist or physician and shall be in a suitable vehicle formulated to minimize misuse by parenteral and accidental ingestion.

§ 7.21. Take-home medication shall be labeled under the

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direct supervision of the pharmacist or physician.

§ 7.22. All methadone for outpatient use shall be dispensed in containers whose composition is chemically and physically compatible with methadone and its vehicle so as to maintain the integrity and effectiveness of the container and its contents. These containers shall be glass, light resistant and tightly closed with child-resistant effectiveness of not less than 85% without a demonstration and not less than 80% after a demonstration of the proper means of opening such special packaging.

§ 7.23. Methadone shall be administered by a physician licensed and registered under state and federal law to prescribe narcotic drugs for patients or by an agent of the physician supervised by and pursuant to the order of the physician. Such agent shall be limited to a pharmacist, a registered nurse, or a practical nurse, all licensed by the Commonwealth of Virginia. The licensed physician assumes responsibility for the amounts of methadone administered or dispensed. All changes in dosage schedule shall be recorded and signed by the physician.

Article 8. Maintenance Treatment.

§ 7.24. The usual initial dose is 20-40 milligrams. Subsequently, the dosage may be adjusted individually as tolerated and required to a maintenance level of approximately 40-120 milligrams daily.

§ 7.25. For daily dosages above 100 milligrams patients shall ingest medication under observation six days per week. These patients may be allowed to take-home medication for one day per week only.

§ 7.26. A daily dose of 100 milligrams or more shall be justified in the medical record. For daily dosages above 100 milligrams or, for take-home doses above 100 milligrams per day, prior approval shall be obtained from the State Methadone Authority.

Article 9. Frequency of Attendance.

§ 7.27. For detoxification, the drug will be administered daily under close observation.

§ 7.28. For maintenance initially, the patient shall receive the medication under observation daily for at least six days a week.

§ 7.29. In maintenance treatment, after demonstrating satisfactory adherence to the program requirements for at least three months by participating actively in the program activities or by participating in educational, vocational and homemaking activities, those patients whose employment, education or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to three times weekly the time when they must ingest the drug under observation. Such patients shall receive no

more than a two day take-home supply.

Article 10. Take-home Medications.

§ 7.30. With continuing adherence to the program's requirements and progressive rehabilitation for at least two years after entrance into the program, such patients may be permitted twice weekly visits to the facility for methadone ingestion under observation with a three day take-home supply.

§ 7.31. Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded in the patient's record.

§ 7.32. Additional take-home medication may be provided at the discretion of the medical director in exceptional circumstances such as illness, family crisis or necessary travel where hardship would result from requiring the customary daily observed medication intake for the specific period in question. However, under no circumstances shall take-home dosage exceed a two-week supply.

Article 11. Security Measures.

§ 7.33. Security measures shall be taken to prevent diversion of methadone into illicit channels. Stocks of methadone shall be kept at the minimum quantity consistent with the needs of the patient population. Security measures shall be outlined by the program director in the license application form.

Article 12. Patient Records.

§ 7.34. Director of accredited methadone programs are required to maintain detailed patient records which shall include but not be limited to:

1. Preliminary intake interview;
2. Social history;
3. Physical and psychological evaluation;
4. Patient consent form;
5. Current treatment plan accompanied by progress recordings. Initial treatment plan shall be documented in each patient's record within four weeks after admission;
6. Laboratory report;
7. Amount of methadone administered or dispensed;
8. Results of urinalysis;

9. Patient attendance record;

10. Detailed account of any adverse reaction, deaths, premature births, or adverse reactions displayed by a newborn which, in the opinion of the attending physician, are due to methadone shall be reported within one month to the Food and Drug Administration and State Methadone Authority on Form FD-1639, "Drug Experience Report";

11. An evaluation of the patient's treatment and progress shall be carried out at least quarterly by the primary counselor. A review of resident progress by clinical staff supervisors or consultants will be undertaken at least semi-annually. These evaluations shall be documented in the patient's records.

Article 13. Program Records.

§ 7.35. Each licensed methadone facility shall be registered with the Drug Enforcement Administration under the category which applies to its business activity.

§ 7.36. Methadone shall be obtained only by use of DEA Form 222 from a Drug Enforcement Administration registered manufacturer or wholesaler and delivered directly to the facility or procured by the program pharmacist from the wholesaler.

§ 7.37. The facility shall keep accurate records of receipt and disbursement as required by the Drug Enforcement Administration and the Virginia State Board of Pharmacy.

Article 14. Confidentiality of Patient Records.

§ 7.38. Disclosure of patient records maintained by any facility shall be governed by 42 CFR Part 2 of the Code of Federal Regulations (7/1/75) and every program shall comply with the provisions contained therein. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by federal and state controlled substances laws; but use or disclosure of records identifying patients shall be limited to actions involving the facility or its personnel.

§ 7.39. Every licensed facility may protect the privacy of patients therein by withholding from all persons not employed by such facility or otherwise connected with the conduct of the facility operations, the names or other identifying characteristics of such patients where the facility director has reasonable grounds to believe that such information may be used to conduct any criminal investigation or prosecution of the patient. Facilities may not be compelled in any federal, state or local, civil, criminal, administrative or other proceedings to furnish such information. This does not require the withholding of information authorized to be furnished pursuant to 42 CFR Part 2, nor does it invalidate any legal process to compel the furnishing of information in accordance with 42 CFR

Part 2. Furthermore, a licensed facility shall permit a duly authorized employee of the Food and Drug Administration of the State Methadone Authority to have access to and copy all records relating to the use of methadone in accordance with the provisions of 42 CFR Part 2 and shall reveal them only when necessary in a related administrative or court proceeding.

§ 7.40. The following records are to be maintained on file at a licensed methadone treatment facility:

1. FD-2632 Application for approval of use of methadone in a treatment program;
2. FD-2633 Medical responsibility statement for use of methadone in a treatment program;
3. FD-2634 Annual report for treatment program using methadone NDATEUS;
4. FD-2636 (if hospital) Hospital request for methadone for detoxification treatment;
5. FD-1639 Drug Experience Report.

Article 15. Evaluation.

§ 7.41. Evaluation of the safety of methadone administered over prolonged periods of time is to be based on results of physical examinations, laboratory examinations, adverse reactions, and results of special procedures when such have been carried out.

§ 7.42. Evaluation of effectiveness of rehabilitation is to be based upon, but not limited to, such criteria as:

1. Social adjustment verified whenever possible by family members or other reliable persons;
2. Withdrawal from methadone and achievement of an enduring drug-free status;
3. Assessment of progress in meeting current treatment plan;
4. Occupational adjustment verified by employers or record of earnings;
5. Extent of drug abuse;
6. Extent of alcohol abuse; and
7. Arrest records.

Article 16. Special Conditions for Use of Methadone in Hospitals for Detoxification and Treatment.

§ 7.43. The following words and terms, when used in this article, shall have the following meaning, unless the

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content clearly indicated otherwise:

"Detoxification treatment using methadone" means the administering of methadone as a substitute narcotic drug in decreasing doses to reach a drug-free state in a period not to exceed 21 days in order to withdraw an individual who is dependent on heroin or other morphine-like drugs from the use of such drugs.

"Temporary maintenance treatment" means (i) treatment of an opiate-addicted patient hospitalized for medical or surgical problems other than opiate addiction; and (ii) emergency treatment of an opiate-addicted person on an inpatient or outpatient basis for not more than 72 hours for such addiction.

§ 7.44. Methadone may be administered or dispensed in a hospital in either oral or parenteral form.

§ 7.45. Temporary maintenance treatment may be instituted in a hospital for an opiate-addicted patient for a medical or surgical problem (other than the addiction) which would be complicated by the patient's not receiving maintenance doses of an opiate. In such instances, the patient may be treated with methadone during the critical period of his hospital confinement. Such patient need not be currently enrolled in a licensed methadone treatment program.

§ 7.46. An opiate-addicted patient may be treated on an emergency inpatient or outpatient basis for not more than 72 hours until he can be admitted to a licensed methadone treatment facility. This 72 hour emergency treatment may be given to a patient who has no medical or surgical problem other than opiate addiction. This treatment shall not be renewed or extended for any given patient. Methadone shall be dispensed and administered daily by the hospital. No take-home doses shall be allowed for this treatment regimen.

§ 7.47. If the hospital is located in the same locality as a licensed methadone treatment facility, the facility may provide the methadone for a patient who is hospitalized for treatment for a condition other than narcotic addiction and who is presently enrolled in the methadone treatment program, provided:

1. A licensed practitioner from the facility (registered nurse, pharmacist, physician or licensed practical nurse) shall administer the methadone directly to the patient on a daily basis.

2. No hospital personnel shall administer the methadone to the patient if the methadone facility's drug supply is used.

3. The facility shall not leave a stock of doses for the patient within the hospital. The hospital may use its own stock of methadone in any available formulation if it so elects. Medical personnel within the hospital may then administer the drug to the patient.

4. Hospitals which wish to provide detoxification or maintenance of an opiate addicted person who has been admitted solely for his addiction problem shall submit FDA Form 2636, "Hospital Request for Methadone for Analgesia in Severe Pain, and Detoxification and Temporary Maintenance Treatment" as well as registering with the Drug Enforcement Administration of Form DEA 363 "New Application for Registration Under Narcotic Addict Treatment Act of 1974."

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-08-1. Virginia Fuel Assistance Program.

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

Public Hearing Dates: May 26, 1987 - 9 a.m.

June 1, 1987 - 1 p.m.

June 4, 1987 - 10 a.m.

July 10, 1987 - 2 p.m.

(See Calendar of Events section for additional information)

Summary:

The amendments make several changes to the Energy Crisis Assistance Program (ECAP) component of the Virginia Fuel Assistance Program. The maximum amount of assistance for major repairs and replacements of heating equipment is being increased to \$500. Payment of electricity needed to operate the primary heating equipment will be limited to a portion of the bill unless income is very low. The security deposit payments will be limited to one-time-only per fuel type. Finally, cooling assistance will be a separate component under the Fuel Assistance Program rather than a type of assistance under ECAP.

VR 615-08-1. Virginia Fuel Assistance Program.

PART I. DEFINITIONS.

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

"Department" means the Department of Social Services.

"Disabled person" means a person receiving Social Security disability, Railroad Retirement Disability, Supplemental Security Income as disabled, or an individual who has been certified as permanently and totally disabled for Medicaid purposes.

"Elderly person" means anyone who is 60 years of age or older.

"Household" means an individual or group of individuals who occupy a housing unit and function as an economic unit by: purchasing residential energy in common (share heat); or, making undesignated payments for energy in the form of rent (heat is included in the rent).

"Poverty guidelines" means the Poverty Income Guidelines as established and published annually by the Department of Health and Human Services.

"Primary heating system" means the system that is currently used to heat the majority of the house.

"Resources" means cash, checking accounts, savings account, saving certificates, stocks, bonds, money market certificates, certificates of deposit, credit unions, Christmas clubs, mutual fund shares, promissory notes, deeds of trust, individual retirement accounts, prepaid funeral expenses in excess of \$900, or any other similar resource which can be liquidated in not more than 60 days.

"Energy-related, weather-related, or supply shortage emergency" means a household has: no heat or an imminent utility cut-off; inoperable or unsafe heating equipment; major air infiltration of housing unit; or a need for air conditioning because of medical reasons.

PART II. FUEL ASSISTANCE.

§ 2.1. The purpose of the Fuel Assistance Program is to provide heating assistance to eligible households to offset the costs of home energy that are excessive in relation to household income.

A. Eligibility criteria.

1. Income limits. Maximum income limits shall be at or below 150% of the Poverty Guidelines. In order to be eligible for Fuel Assistance, a household's income must be at or below the maximum income limits.

2. Resource limits. The resource limit for a household containing an elderly or disabled person shall be \$3,000. The resource limit for all other households shall be \$1,500. In order to be eligible for Fuel Assistance, a household's resources must be at or below the amount specified.

B. Resource transfer.

Any applicant of fuel assistance shall be ineligible for that fuel season if he improperly transfers or otherwise improperly disposed of his legal or equitable interest in nonexempt liquid resources without adequate compensation within one year of application for Fuel Assistance.

Compensation that is adequate means goods, services or money that approximates the value of the resources.

This policy does not apply if any of the following occur:

1. The transfer was not done in an effort to become eligible for Fuel Assistance;
2. The resource was less than the allowable resource limit;
3. The disposition or transfer was done without the person's full understanding.

§ 2.2. Benefits.

Benefit levels shall be established based on income in relation to household size, fuel type, and geographic area, with the highest benefit given to households with the least income and the highest energy need.

Geographic areas are the six climate zones for Virginia recognized by the National Oceanic and Atmospheric Administration and the United States Department of Commerce. The six climate zones are: Northern, Tidewater, Central Mountain, Southwestern Mountain, Eastern Piedmont, and Western Piedmont.

Each year, the Division of Energy within the Department of Mines, Minerals and Energy will supply data on the average costs of various fuels.

Each year the benefit amounts for each geographic area shall be determined by the following method:

A. A projection will be made of the number of households who will apply for Fuel Assistance. The projection will be based on the number of households who applied the previous year increased by the additional number of people who applied the year before.

B. An average grant per household will be determined based on the estimated amount of funds that will be available for benefits.

$$\frac{\$ \text{ available}}{\text{no. of households}} = \text{average grant}$$

C. The benefits for each geographic area will be determined by using the average grant as a base figure and obtaining the highest and lowest benefits by using a ratio for each area based on degree days and the cost of various fuel types.

PART III. ENERGY CRISIS ASSISTANCE PROGRAM.

§ 3.1. The purpose of the Energy Crisis Assistance Program component is to assist households with energy-related, weather-related or supply shortage emergencies. This component is intended to meet energy emergencies that cannot be met by the Fuel Assistance Program or other local resources.

A. Eligibility criteria.

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In order to be eligible for Energy Crisis Assistance, a household shall meet the following criteria:

1. All of the Fuel Assistance Program criteria as set forth in Part II, § 2.1;
2. Have an energy-related, weather-related or supply shortage emergency as defined in Part I;
3. Other resources cannot meet the emergency (including Fuel Assistance);
4. Did not receive Energy Crisis Assistance during the current federal fiscal year: October 1 - ~~September 30~~ August 31 .

B. Benefits.

An eligible household can receive no more than \$200 for Energy Crisis Assistance during any federal fiscal year, unless the assistance is for the major repair or replacement of heating equipment or the purchase of an air conditioner, in which case the maximum amount of assistance shall be ~~\$400~~ \$500 .

The following forms of assistance must shall be provided:

1. Repairs or replacement of inoperable or unsafe heating equipment;
2. ~~Paying secondary heating sources. Secondary heating source means the energy source used~~ *Payment of electricity when it is needed to operate the primary heating equipment. Payment will be limited to a portion of the bill unless the household's income is very low in which case the entire bill will be paid up to the \$200 maximum.*
3. ~~Paying A one-time-only payment per fuel type of a heat-related utility security deposit.~~

The following forms of assistance can be provided at local option:

1. Providing space heaters.
2. Providing blankets or warm clothing.
3. Providing emergency shelter.
4. ~~Paying for cooling assistance when it is medically needed.~~
5. 4. Emergency repairs of dwelling to prevent heat loss.
6. 5. Other (locality must specify).

PART IV. COOLING ASSISTANCE PROGRAM.

§ 4.1. *The Cooling Assistance Program is an optional component of the Fuel Assistance Program that is designed to provide help to persons medically in need of cooling assistance due to the heat.*

Local agencies who choose this option will be given a separate allocation that will be based on a percentage of their ECAP allocation and will provide the assistance no earlier than June 1 through no later than August 31.

A. Eligibility criteria.

In order to be eligible for cooling assistance, a household must meet all of the Fuel Assistance eligibility criteria and must be medically in need of cooling.

B. Benefits.

The assistance is limited to: no more than \$200 for repairing or renting a fan or air conditioner, purchasing a fan, or paying an electric bill or security deposit; or no more than \$400 for purchasing an air conditioner.

PART V. ADMINISTRATIVE COSTS.

§ ~~4.1.~~ § 5.1. Local administrative expenditures for the implementation of the Fuel Assistance Program shall not be reimbursed in excess of whichever is the higher of 9.0% of the agency's allocation or 125% of the average administrative cost per case for the previous year.

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: VR 672-10-1. Hazardous Waste Management Regulations: Amendment 8.

Statutory Authority: § 10-266(11) of the Code of Virginia.

Public Hearing Date: June 15, 1987 - 10 a.m.
(See Calendar of Events section
for additional information)

REGISTRAR'S NOTICE: Due to its length, Amendment 8 to the Hazardous Waste Management Regulations will not be published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the office of the Virginia Waste Management Board.

Summary:

Amendment 8 proposes to incorporate changes in the federal regulations promulgated up to October 1, 1986. Other minor revisions, such as editorial changes, additions of reference materials, or clarifying language, have been included for the convenience of

the regulated community, and to maintain equivalence with the federal requirements for a hazardous waste management program.

The major changes in Amendment 8 are as follows:

1. Initial Hazardous and Solid Waste Amendment codification (FR 1978ff, 1/14/85); and HSWA codification rules (50 FR 28702ff, 7/15/85) for

Delisting petitions

Household waste exclusion

Waste minimization requirement

Prohibition of management in salt domes

Prohibition of liquids in landfills

Prohibition against use of hazardous waste as a dust suppressant

Requirements for double liners

Removal of exemptions for groundwater monitoring

Corrective action requirements

Changes to permitting requirements

Requirements for transmittal of exposure information;

2. Listing of new wastes (50 FR 42936, 10/23/85; 59 FR 53315, 12/31/85; 51 FR 5330, 2/13/86; 51 FR 6541, 2/25/86);

3. Storage and treatment of hazardous waste in tank system (51 FR 25422, 7/14/86);

4. Burning of used oil (HSWA) (50 FR 49164ff, 11/29/85);

5. Small quantity generators of hazardous waste (HSWA) (51 FR 10174ff, 3/24/86);

6. Financial responsibility settlement (51 FR 16443ff, 5/2/86); and

7. A change to the wording of § 6.4.E on Accumulation Time.

Among the various editorial changes and clarifying language proposed, will be changes reflecting the reorganization of the Division of Solid and Hazardous Waste Management of the Virginia Department of Health into the Virginia Department of Waste Management. Accordingly, "Board of Health," "Commissioner," and similar wording will be changed to read: "Board of Waste Management," and "Executive Director."

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.

Title 36 of the Code of Virginia.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

NOTE: The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:4:1 of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: VR 400-01-0001. Rules and Regulations.

Statutory Authority: § 36-35.30:3 of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

The amendments to the Rules and Regulations implement certain legislative amendments to the Virginia Housing Development Authority Act by specifying that the "original principal amount" of mortgage loans to housing sponsors of multi-family rental housing developments may not exceed the statutory maximum amount, by making discretionary such housing sponsors' maximum annual limited dividend distribution, by permitting such housing sponsors' maximum annual limited dividend distribution, by permitting such housing sponsors' equity to be determined based on fair market value, and by providing that the authority's regulatory powers to supervise such housing sponsors under § 36-55.34:1 of the Code of Virginia shall be subject to the terms of agreements relating to the authority mortgage loan. The amendments also clarify the manner for determining adjusted family income and sales price limits for housing financed or otherwise assisted by the federal government.

VR 400-01-0001. Rules and Regulations.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Act" means the Virginia Housing Development Authority Act, being Chapter 1.2 (§ 36-55.24, et seq.) of

"Adjusted family income" means the total annual income of a person or all members of a family residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings, less the total of the credits applicable to such person or family, computed in accordance with the following: (i) a credit in an amount equal to \$1,000 for each dependent family member other than such a family member qualifying under (vi) below; (ii) a credit in an amount equal to the lesser of \$1,000 or 10% of such total annual income; (iii) a credit in an amount equal to all income of such person or any such family member of an unusual or temporary nature and not related to such person's or family member's regular employment, to the extent approved by the executive director; (iv) a credit in an amount equal to all earnings of any family member who is a minor under 18 years of age or who is physically or mentally handicapped, as determined on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; (v) a credit in an amount equal to such person or family's medical expenses, not compensated for or covered by insurance, in excess of 3.0% of such total annual income; and (vi) a credit in an amount equal to 1/2 of the total annual income of all family members over 18 years of age who are secondary wage earners in the family, provided, however, that such credit shall not exceed the amount of \$2,500. If federal law or rules and regulations impose limitations on the incomes of the persons or families who may own or occupy a single family dwelling unit or multi-family residential housing development, the authority may provide in its procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations that the adjusted family income shall be computed, for the purpose of determining eligibility under § 1.2 of these rules and regulations for ownership or occupancy of such single family dwelling unit or the dwelling units in such multi-family residential housing development (or, if so provided in the procedures, instructions and guidelines, only those dwelling units in such development which are subject to such federal income limitations), in the manner specified by such federal law or rules and regulations (subject to such modifications as may be provided in or authorized by the procedures, instructions and guidelines) rather than in the manner provided in the preceding sentence.

"Applicant" means an individual, corporation, partnership, limited partnership, joint venture, trust, firm, association, public body or other legal entity or any combination thereof, making application to receive an authority mortgage loan or other assistance under the Act.

"Application" means a request for an authority mortgage loan or other assistance under the Act.

"Authority" means the Virginia Housing Development Authority.

"Authority mortgage loan" or "mortgage loan" means a loan which is made or financed or is to be made or financed, in whole or in part, by the authority pursuant to these rules and regulations and is secured or is to be secured by a mortgage.

"Board" means the Board of Commissioners of the authority.

" Dwelling unit" means a unit of living accommodations intended for occupancy by one person or family.

"Executive director" means the executive director of the authority or any other officer or employee of the authority who is authorized to act on behalf of the authority pursuant to a resolution of the board.

"Family" means, in the context of the financing of a single family dwelling unit, two or more individuals related by blood, marriage or adoption, living together on the premises as a single nonprofit housekeeping unit. In all contexts other than the financing of a single family dwelling unit, "family" means two or more individuals living together in accordance with law.

"FHA" means the Federal Housing Administration and any successor entity.

" Limited For-profit housing sponsor" means a housing sponsor which is organized for profit and agrees may be required by the authority to agree to limit its profit in connection with the sponsorship of authority financed housing in accordance with the terms and conditions of the Act and these rules and regulations and subject to the regulatory powers of the authority.

"Multi-family dwelling unit" means a dwelling unit in multi-family residential housing.

"Nonprofit housing sponsor" means a housing sponsor which is organized not for profit and agrees may be required by the authority to agree not to receive any limited dividend distributions from the ownership and operation of a housing development.

"Person" means:

1. An individual who is 62 or more years of age;
2. An individual who is handicapped or disabled, as determined by the executive director on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; or

3. An individual who is neither handicapped nor disabled nor 62 or more years of age; provided that the board may from time to time by resolution (i) limit the number of, fix the maximum number of bedrooms contained in, or otherwise impose restrictions and limitations with respect to single family dwelling units that may be financed by the authority for occupancy by such individuals and (ii) limit the percentage of multi-family dwelling units within a multi-family residential housing development that may be made available for occupancy by such individuals or otherwise impose restrictions and limitations with respect to multi-family dwelling units intended for occupancy by such individuals.

"Rent" means the rent or other occupancy charge applicable to a dwelling unit within a housing development operated on a rental basis or owned and operated on a cooperative basis.

"Single family dwelling unit" means a dwelling unit in single family residential housing.

Terms defined in the Act and used and not otherwise defined herein shall have the same meaning ascribed to them in the Act. Such terms, when used herein, are capitalized.

§ 1.2. Eligibility for occupancy.

A. The board shall from time to time establish , by resolution or by procedures, instructions and guidelines pursuant to § 1.3 of these rules and regulations, income limitations with respect to single family dwelling units financed or to be financed by the authority. Such income limits may vary based upon the area of the state, type of program, the size and circumstances of the person or family, the type and characteristics of the single-family dwelling unit, and any other factors determined by the board to be necessary or appropriate for the administration of its programs. To be considered eligible for the financing of a single family dwelling unit, a person or family shall not have an adjusted family income which exceeds the applicable income limitation established by resolution of the board. It shall be the responsibility of each applicant for the financing of a single family dwelling unit to report accurately and completely his adjusted family's income, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the authority with verification thereof.

B. To be considered eligible for initial occupancy of a multi-family dwelling unit financed by an authority mortgage loan, a person or family shall not have an adjusted family income greater than seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the board may from time to time establish , by resolution or by procedures, instructions and guidelines pursuant to § 1.3 of these rules and regulations, lower income limits for initial

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occupancy of such dwelling unit.

C. It shall be the responsibility of the housing sponsor to examine and determine the income and eligibility of applicants for occupancy of multi-family dwelling units, report such determinations to the authority in such form as the executive director may require, reexamine and redetermine the income and eligibility of all occupants of such dwelling units every two years or at more frequent intervals if required by the executive director, and report such redeterminations to the authority in such form as the executive director may require. It shall be the responsibility of each applicant for occupancy of a multi-family dwelling unit, and of each occupant of such dwelling units, to report accurately and completely his adjusted family's income, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the housing sponsor and the authority with verification thereof at the times of examination and reexamination of income and eligibility as aforesaid.

D. With respect to a person or family occupying a multi-family dwelling unit, if a periodic reexamination and redetermination of the adjusted family's income and eligibility as provided in subsection C of this section establishes that such person's or family's adjusted family income then exceeds the maximum limit for ~~initial~~ occupancy of such dwelling unit applicable at the time of such reexamination and redetermination, such person or family shall be permitted to continue to occupy such dwelling unit; provided, however, that during the period that such person's or family's adjusted family income exceeds such maximum limit, such person or family may be required by the executive director to pay such rent, carrying charges or surcharge as determined by the executive director in accordance with a schedule prescribed or approved by him. If such person's or family's adjusted family income shall exceed such maximum limit for a period of six months or more, the executive director may direct or permit the housing sponsor to terminate the tenancy or interest by giving written notice of termination to such person or family specifying the reason for such termination and giving such person or family not less than 90 days (or such longer period of time as the authority shall determine to be necessary to find suitable alternative housing) within which to vacate such dwelling unit. If any person or family residing in a housing development which is a cooperative is so required to be removed from the housing development, such person or family shall be discharged from any liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed for all sums paid by such person or family to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy in such cooperative and any additional sums payable to such person or family in accordance with a schedule prescribed or approved by the authority, subject however to the terms of any instrument or agreement relating to such cooperative or the occupancy thereof.

§ 1.3. Procedures, instructions and guidelines.

The board may from time to time by resolution establish and modify procedures, instructions and guidelines for the implementation and administration of programs established under these rules and regulations. Such procedures, instructions and guidelines may include and, where deemed appropriate by the board, may authorize the executive director to establish and modify, such requirements, conditions and standards as may be deemed necessary or appropriate for the purpose of implementing and administering such programs, subject to and consistent with the requirements of the Act and these rules and regulations. Upon promulgation, such procedures, instructions and guidelines shall be available to the public upon request.

§ 1.4. Forms.

Forms of documents, instruments and agreements to be employed with respect to the processing of applications, the making or financing of loans under these rules and regulations, the issuance and sale of authority notes and bonds, and any other matters relating to such loans and the implementation and administration of the authority's programs shall be prepared, revised and amended from time to time under the direction and control of the executive director.

§ 1.5. Interest rates.

The executive director shall establish the interest rate or rates to be charged to the housing sponsor or person or family in connection with any loan made or financed under these rules and regulations. To the extent permitted by the documents relating to the loan, the executive director may adjust at any time and from time to time the interest rate or rates charged on such loan. Without limiting the foregoing, the interest rate or rates may be adjusted if such adjustment is determined to be necessary or appropriate by the executive director as a result of any allocation or reallocation of such loan to or among the authority's note or bond funds or any other funds of the authority. Any interest rate or rates established pursuant to this § 1.5 shall reflect the intent expressed in *subdivision 3 of subsection A of § 36-55.33:1 A-3* of the Code of Virginia.

§ 1.6. Federally assisted loans.

When a housing development or dwelling unit financed by a loan under these rules and regulations or otherwise assisted by the authority is subject to federal mortgage insurance or is otherwise assisted or aided, directly or indirectly, by the federal government or where the authority assists in the administration of any federal program, the applicable federal *law and* rules and regulations shall be controlling over any inconsistent provision hereof.

§ 1.7. Administration of state and federal programs; acceptance of aid and guarantees.

A. The board by resolution may authorize the authority to operate and administer any program to provide loans or other housing assistance for persons and families of low and moderate income and, in furtherance thereof, to enter into agreements or other transactions with the federal government, the Commonwealth of Virginia or any governmental agency thereof, any municipality or any other persons or entities and to take such other action as shall be necessary or appropriate for the purpose of operating and administering, on behalf of or in cooperation with any of the foregoing, any such program.

B. The board by resolution may authorize the acceptance by the authority of gifts, grants, loans, contributions or other aid, including insurance and guarantees, from the federal government, the Commonwealth of Virginia or any agency thereof, or any other source in furtherance of the purposes of the Act, do any and all things necessary in order to avail itself of such aid, agree and comply with such conditions upon which such gifts, grants, loans, contributions, insurance, guarantees or other aid may be made, and authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate to implement any such gifts, grants, loans, contributions, insurance guarantees or other aid.

C. Without limitation on the provisions of subsection B of this section, the board by resolution may authorize the acceptance by the authority of any insurance or guarantee or commitment to insure or guarantee its bonds or notes and any grant with respect to such bonds or notes, whether insured, guaranteed or otherwise, and may authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate with respect thereto.

§ 1.8. Assistance of mortgage lenders.

The authority may, at its option, utilize the assistance and services of mortgage lenders in the processing, originating, disbursing and servicing of loans under these rules and regulations. The executive director is authorized to take such action and to execute such agreements and documents as he shall deem necessary or appropriate in order to procure, maintain and supervise such assistance and services. In the case of authority mortgage loans to be financed from the proceeds of obligations issued by the authority pursuant to § 36-55.37:1 of the Code of Virginia, the authority shall be required to utilize such assistance and services of mortgage lenders in the origination and servicing of such authority mortgage loans.

§ 1.9. Waiver.

The board by resolution may for good cause in any particular case waive or vary any of the provisions of these rules and regulations.

§ 1.10. Amendment.

These rules and regulations may be amended and supplemented by the board at such times and in such manner as it may determine, to the extent not inconsistent with the Act or with other applicable provisions of law.

§ 1.11. Separability.

If any clause, sentence, paragraph, section or part of these rules and regulations shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

PART II.

MULTI-FAMILY RENTAL HOUSING PROGRAM.

§ 2.1. Mortgage loans.

A. This Part II shall govern mortgage loans made by the authority to housing sponsors to finance the development, construction and/or rehabilitation or the ownership and operation of multi-family residential housing. For purposes of this Part II, multi-family residential housing shall include housing developments intended to be owned and operated on a cooperative basis.

B. Authority mortgage loans as described in subsection A of this section may be made to ~~limited~~ for-profit housing sponsors in *original principal* amounts not to exceed 95% of the housing development costs as determined by the authority, and to nonprofit housing sponsors in amounts not to exceed 100% of the housing development costs as determined by the authority.

C. Authority mortgage loans as described in subsection A of this section may be made for terms of up to 50 years, including the period of any development and construction or rehabilitation of the housing development. The term of any such mortgage loan, the amortization period, the estimated housing development costs, the principal amount of the mortgage loan, the terms and conditions applicable to any equity contribution by the housing sponsor, any assurances of successful completion and operational stability of the housing development, and other terms and conditions of such mortgage loan shall be set forth in the board's resolution authorizing such mortgage loan or in the mortgage loan commitment issued on behalf of the authority pursuant to such resolution.

§ 2.2. Applications and processing.

A. The processing of applications for authority mortgage loans pursuant to this Part II will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. Upon satisfactory completion of the processing of such application by the authority staff in accordance with

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the aforesaid procedures, instructions and guidelines and approval of the application by the executive director, the authority staff's analysis of the application and the executive director's recommendation with respect thereto shall be presented to the board.

The board shall review each such analysis and recommendation and, if it determines that the application meets the requirements of the Act, these rules and regulations and the authority's procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the board may by resolution authorize an authority mortgage loan to the housing sponsor. Such resolution shall authorize the executive director to issue an authority mortgage loan commitment to the housing sponsor for the financing of the proposed housing development.

An authority mortgage loan shall not be authorized unless the board by resolution shall make the applicable findings required by § 36-55.39 of the Code of Virginia; provided, however, that the board may in its discretion authorize the authority mortgage loan without making the finding, if applicable, required by *subsection B* of § 36-55.39 B of the Code of Virginia, subject to the condition that such finding be made by the board prior to the financing of the authority mortgage loan.

Such resolution, or the authority mortgage loan commitment issued by the executive director pursuant to such resolution, shall include such terms and conditions as the authority considers appropriate with respect to the development, construction or rehabilitation of the proposed housing development, the marketing and occupancy of such housing development, the disbursement and repayment of the authority mortgage loan, and other matters related to the development, construction or rehabilitation and the ownership and operation of the proposed housing development. Such resolution or authority mortgage loan commitment may include a financial analysis of the proposed housing development, setting forth the initial schedule of rents, the approved initial budget for operation of the housing development and a schedule of the estimated housing development costs. Such a resolution authorizing an authority mortgage loan to a ~~limited for-profit~~ housing sponsor shall, *if applicable*, include a determination of the maximum annual rate at which distributions may be made by such ~~limited for-profit~~ housing sponsor with respect to such housing development pursuant to the provisions of subsection B of § 2.4 of these rules and regulations.

C. Subsequent to adoption of the resolution of the board authorizing an authority mortgage loan, the executive director may, without further action by the board, increase the principal amount of such authority mortgage loan by an amount not to exceed 2.0% of the principal amount of such authority mortgage loan, provided that such an increase is consistent with the Act, these rules and regulations and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and

regulations.

§ 2.3. Regulation of housing sponsors.

The authority shall have the power to supervise the housing sponsor in accordance with the provisions of § 36-55.34:1 of the Code of Virginia and the terms of the agreements relating to the authority mortgage loan at all times during which the authority mortgage loan is outstanding. The executive director may require the housing sponsor to execute a regulatory agreement with the authority, and such other related documents as the executive director shall determine to be necessary or appropriate, which shall authorize the authority to regulate such aspects of the development, construction or rehabilitation, operations, use and disposition of the proposed housing development and of the activities of the housing sponsor as the executive director shall determine to be necessary or appropriate to protect the interests of the authority and to permit fulfillment of the authority's duties and responsibilities under the Act and these rules and regulations.

§ 2.4. Allowable categories of cost; limited dividend distributions.

A. The categories of cost which shall be allowable by the authority in development, construction or rehabilitation of a housing development financed under this Part II shall include the following: (i) development and construction or rehabilitation costs, including equipment, labor and materials furnished by the owner, contractor or subcontractors, general requirements for job supervision, an allowance for office overhead of the contractor, building permit, bonds and letters of credit to assure completion, water, sewer and other utility fees, and a contractor's profit or a profit and risk allowance in lieu thereof; (ii) architectural and engineering fees; (iii) interest on the mortgage loan; (iv) real estate taxes, hazard insurance premiums and mortgage insurance premiums; (v) title and recording expenses; (vi) surveys; (vii) test borings; (viii) the authority's financing fees; (ix) legal and accounting expenses; (x) in the case of a nonprofit housing sponsor, organization and sponsor expenses, consultant fees, and a reserve to make the project operational; (xi) off-site costs; (xii) the cost or fair market value of the land and any improvements thereon to be used in the housing development; (xiii) tenant relocation costs; (xiv) operating reserves to be funded from proceeds of the mortgage loan; (xv) and such other categories of costs which the authority shall determine to be reasonable and necessary for the development and construction or rehabilitation of the housing development. The extent to which costs in any of such categories shall be recognized or allowed in respect of a specific housing development shall be established by the terms of a cost certification guide which shall be prepared and, from time to time, revised by the executive director and which shall be incorporated by reference into the documents executed with respect to each such mortgage loan. Upon completion of the development and construction or rehabilitation of

the housing development, the housing sponsor shall certify to the authority the total of the housing development costs in accordance with these rules and regulations and the cost certification guide, subject to the review and determination of the authority. In lieu of such certification of housing development costs, the executive director may require the housing sponsor to provide such other assurances of housing development costs as he shall deem necessary to enable the authority to determine with reasonable accuracy the actual amount of such housing development costs.

B. In connection with an authority mortgage loan to a ~~limited for-~~ profit housing sponsor pursuant to this Part II:

1. The board's resolution authorizing such mortgage loan shall prescribe the maximum annual rate, *if any*, at which distributions may be made by such ~~limited for-~~ profit housing sponsor with respect to such housing development, expressed as a percentage of such ~~limited for-~~ profit housing sponsor's equity in such housing development (such equity being established in accordance with paragraph 3 of this subsection), which rate, *if any*, shall not be inconsistent with the provisions of the Act. In connection with the establishment of *any* such rates, the board shall not prescribe differing or discriminatory rates with respect to substantially similar housing developments. The board's resolution authorizing such mortgage loan shall specify whether ~~the any such~~ maximum annual rate of distributions shall be cumulative or noncumulative;

2. Any payments to a person or entity who is a principal, stockholder or holder of a beneficial interest in such ~~limited for-~~ profit housing sponsor shall not be deemed a "distribution" or "return" to such person or entity if the funds with which such payment is made are funds paid or contributed to such ~~limited for-~~ profit housing sponsor by persons or entities purchasing a beneficial interest in such ~~limited for-~~ profit housing sponsor; and

3. Subsequent to completion of such housing development and in conjunction with other determinations made on behalf of the authority as to allowable housing development costs and related matters, the executive director shall establish the ~~limited for-~~ profit housing sponsor's equity in such housing development; ~~which~~. Such equity shall be the difference between (i) the amount of either (A) the total housing development costs of such housing development as finally determined by the authority or (B) the fair market value of such housing development and (ii) the final principal amount of the authority mortgage loan as to such housing development. *The authority may thereafter from time to time adjust such equity to be the difference, as of the date of adjustment, between the fair market value of such housing development and the outstanding principal balance of the authority mortgage loan. The*

manner for so determining and adjusting such equity shall be established in the board's resolution authorizing the authority mortgage loan or in amendments to such resolution.

§ 2.5. Tenant selection plan.

As a part of each application for an authority mortgage loan under this Part II, the housing sponsor shall prepare and submit to the authority for its review and approval a proposed tenant selection plan with respect to the proposed housing development. The proposed tenant selection plan shall include, among other information that the executive director may require from time to time, the following:

1. The proposed rent structure of the proposed housing development;
2. The utilization of any subsidy or other assistance from the federal government or any other source;
3. Income limitations of the authority for initial occupancy of the dwelling units in the proposed housing development as determined in accordance with these rules and regulations;
4. The proposed income levels of occupants;
5. Any arrangements contemplated by the housing sponsor for occupant referrals or relocations from federal, state or local government agencies or community organizations;
6. The marketing activities to be performed with respect to the leasing of the proposed housing development (including any affirmative marketing efforts and media advertising plans) and the identity and qualifications of the proposed marketing and management agents of the housing sponsor; and
7. Any criteria to be used for disapproving applicants and for establishing priorities among eligible applicants for occupancy of the proposed housing development.

PART III. SINGLE FAMILY DEVELOPMENT AND CONSTRUCTION LOANS.

§ 3.1. Development and construction loans.

A. This Part III shall govern mortgage loans made by the authority to housing sponsors for the development and construction or rehabilitation of single family residential housing for eventual sale to persons or families of low or moderate income.

B. Authority mortgage loans as described in subsection A of this section may be made to housing sponsors for terms not in excess of five years and in *original principal* amounts not to exceed 95% of the estimated total housing

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development costs as determined by the authority, except that in the case of nonprofit housing sponsors the *original principal* amount of the authority mortgage loans may not exceed 100% of the estimated total housing development costs as determined by the authority. In determining the estimated total housing development costs, the categories of costs which shall be includable therein shall be those set forth in § 2.4 of these rules and regulations, to the extent deemed by the executive director to be applicable to the housing development, and such other costs as the authority shall deem reasonable and necessary for the sale and conveyance of the single family dwelling units. The estimated total housing development costs and the principal amount of the authority mortgage loan with respect to such housing development, together with other terms and conditions of the authority mortgage loan and related matters, shall be set forth in the board's resolution authorizing such mortgage loan or in the mortgage loan commitment issued by the authority pursuant to such resolution.

§ 3.2. Applications and processing.

A. The processing of applications for authority mortgage loans pursuant to this Part III will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. Upon satisfactory completion of the processing of such application by the authority staff in accordance with the aforesaid procedures, instructions and guidelines and approval of the application by the executive director, the authority staff's analysis of the application and the executive director's recommendation with respect thereto shall be presented to the board.

The authority board shall review each such analysis and recommendation and, if it determines that the application meets the requirements of the Act, these rules and regulations and the authority's procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the board may by resolution authorize an authority mortgage loan to the housing sponsor. Such resolution shall authorize the executive director to issue an authority mortgage loan commitment to the housing sponsor for the financing of the proposed housing development.

An authority mortgage loan shall not be authorized unless the board by resolution shall make the findings required by *subsection A* § 36-55.39 A of the Code of Virginia.

Such resolution, or the authority mortgage loan commitment issued by the executive director pursuant to such resolution, shall include such terms and conditions as the authority considers appropriate with respect to the construction of the proposed housing development, the marketing and sale of the single family dwelling units in such housing development, the disbursement and repayment of the authority mortgage loan, assurances of

successful completion of the proposed housing development, and all other matters related to the development, construction or rehabilitation and sale of the proposed housing development. Such resolution or authority mortgage loan commitment may include a financial analysis of the proposed housing development setting forth the sales price limits for the single family dwelling units within the proposed housing development and a schedule of the estimated housing development costs.

Subsequent to adoption of the resolution of the board authorizing an authority mortgage loan pursuant to this Part III, the executive director may, without further action by the board, increase the principal amount of such authority mortgage loan by an amount not to exceed 2.0% of such mortgage loan, provided that such an increase is consistent with the Act, these rules and regulations and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations.

§ 3.3. Regulation of housing sponsors.

The authority shall have the power to supervise the housing sponsor in accordance with the provisions of § 36-55.34:1 of the Code of Virginia *and the terms of the agreements relating to the authority mortgage loan* at all times during which the authority mortgage loan is outstanding. The executive director may require the housing sponsor to execute a regulatory agreement with the authority, and such other related documents as the executive director shall determine to be necessary or appropriate, which shall authorize the authority to regulate such aspects of the development, construction or rehabilitation and sale of the proposed housing development as the executive director shall determine to be necessary or appropriate to protect the interests of the authority and to permit fulfillment of the authority's duties and responsibilities under the Act and these rules and regulations.

§ 3.4. Sale of single family housing units.

A. As a part of each application for an authority mortgage loan under this Part III, the housing sponsor shall prepare and submit to the authority a proposed marketing plan for review and approval by the authority. The proposed marketing plan shall include, among other information that the executive director may require from time to time, the following:

1. The proposed sales prices of the single family dwelling units;
2. The utilization of any mortgage insurance, subsidy or other assistance from the federal government or any other source;
3. The proposed income levels of purchasers therefor, which income levels shall not exceed the income limitations of the authority applicable to the single family dwelling units; and

4. The marketing activities to be performed with respect to the sale of the single family dwelling units (including any affirmative marketing efforts and media advertising plans) and the identity and qualifications of the proposed marketing agent of the housing sponsor.

B. In the event that a single family dwelling unit shall be sold to a purchaser who is not qualified to receive an authority mortgage loan under the applicable income limitations established pursuant to subsection A of § 1.2 of these rules and regulations, the authority shall have the right to require the housing sponsor to pay a penalty in such amount as shall be prescribed in the board's resolution authorizing the mortgage loan or in the authority mortgage loan commitment issued pursuant to such resolution.

PART IV. SINGLE FAMILY LOANS TO INDIVIDUAL PURCHASERS.

§ 4.1. Mortgage loans.

A. This Part IV shall govern mortgage loans made by the authority to persons or families of low or moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family housing dwelling units.

B. Authority mortgage loans pursuant to subsection A of this section may be made only to persons or families of low or moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations.

C. The board may from time to time establish by resolution sales price limits for single family dwelling units financed or to be financed by the authority. Such sales price limits may vary based upon the area of the state, the type of program, the size and circumstances of the person or family who is to occupy such dwelling unit, the type and characteristics of such dwelling unit, and any other factors determined by the board to be necessary or appropriate for the administration of the program under this Part IV.

D. An authority mortgage loan to be financed under this Part IV hereof may be made for a term not to exceed 50 years. The original principal amount and term of any such authority mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. The original principal amount of authority mortgage loans made pursuant to this Part IV shall not exceed 98% of the first \$25,000 of the sales price of the single family dwelling unit and 95% of the amount of the sales price of the single family dwelling unit in excess of \$25,000 or, in

the case of authority mortgage loans guaranteed or insured by the Veterans' Administration, 100% of the sales price of the single family dwelling unit, to the extent such sales price is approved by the executive director and subject to such further limitations as may be provided in the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations. The term "sales price," with respect to authority mortgage loans for the combined acquisition and rehabilitation of a single family housing dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such housing dwelling unit will not be available for occupancy.

§ 4.2. Applications and processing.

A. The processing of applications for authority mortgage loans pursuant to this Part IV will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. If the applicant and the application meet the requirements of the Act, these rules and regulations and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the executive director may issue on behalf of the authority an authority mortgage loan commitment to the applicant for the financing of the single family housing dwelling unit, subject to the approval or ratification thereof by the board. Such authority mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the authority mortgage loan commitment.

PART V. HOME REHABILITATION LOANS.

§ 5.1. General purpose.

This Part V shall govern the making of loans by the authority to persons or families of low or moderate income for the rehabilitation of single family dwelling units. For the purposes of this Part V, such loans shall be referred to as "home rehabilitation loans."

§ 5.2. Terms of home rehabilitation loans.

A. A home rehabilitation loan may be made pursuant to this Part V only to a borrower who is a person or family of low and moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations. The types of improvements which may be financed by a home rehabilitation loan shall be established from time to time by the board and shall be set forth in the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

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B. Home rehabilitation loans to be financed under this Part V may be made for a term not to exceed 30 years. The original principal amount of any such home rehabilitation loan shall not exceed 100% of the total cost of the rehabilitation.

C. Home rehabilitation loans shall be secured by mortgages, in such form or forms as may be approved by the executive director, on the real property with respect to which such home rehabilitation loans are made.

§ 5.3. Application and processing.

A. The processing of application for home rehabilitation loans under this Part V will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. If the executive director determines that the applicant and the application for a home rehabilitation loan meet the requirements of the Act, the rules and regulations set forth in this Part V, and the applicable procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations, he may issue on behalf of the authority a commitment to the applicant with respect to such home rehabilitation loan, subject to the approval or ratification thereof by the authority board. The original principal amount, term and interest rate or rates on the home rehabilitation loan and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the commitment.

PART VI. ENERGY LOANS.

§ 6.1. General purpose; applicability.

A. This Part VI shall govern the making of loans to finance the purchase and installation of energy saving measures and alternative energy sources which will reduce the reliance on present sources of energy for use in the dwellings of residents of the Commonwealth of Virginia or in public or nonprofit buildings or facilities. Such measures and sources shall include, but not be limited to, insulation, caulking, weatherstripping, storm windows and doors, furnace modification or replacement, and solar energy devices. For purposes of this Part VI, such loans shall be referred to as "energy loans."

B. Any energy loans made with respect to dwellings shall be limited to dwellings occupied by persons and families of low and moderate income qualified pursuant to ~~section~~ subsection A of § 1.2 of these rules and regulations or pursuant to standards under applicable federal rules and regulations as approved by the board with any modifications thereto. Energy loans shall be made only for the purposes set forth in subsection A of this section.

§ 6.2. Terms of energy loans.

A. Energy loans to be financed under this Part VI may be made for a term not to exceed 30 years. The original principal amount of any such energy loans shall not exceed 100% of the total cost of the energy saving measures and alternative energy sources as described in § 6.1 of these rules and regulations.

B. The authority may, at its option, require that energy loans (i) be insured by a private mortgage insurance company; (ii) be insured or otherwise assisted by an appropriate agency of the federal or state government; and/or (iii) be secured by a mortgage.

§ 6.3. Processing of loan application and issuance of loan commitments.

The processing of applications for energy loans pursuant to this Part VI will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations. If the executive director determines that the applicant and the application for an energy loan meet the requirements of (i) the Act; (ii) the rules and regulations set forth in this Part VI; and (iii) the applicable procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, he may issue on behalf of the authority a loan commitment to the applicant with respect to such energy loan, subject to the approval or ratification thereof by the authority board. The original principal amount, term and interest rate or rates on any energy loan and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the loan commitment issued by the authority with respect to such energy loan.

PART VII. PURCHASE OF MORTGAGE LOANS.

§ 7.1. Applicability.

This Part VII shall govern the purchase of mortgage loans from a mortgage lender to finance residential housing for persons and families of low and moderate income qualified pursuant to § 1.2 of these rules and regulations.

§ 7.2. Purchase of mortgage loans to finance single family dwelling units.

A. The authority may from time to time purchase from mortgage lenders mortgage loans which at the time of such purchase are financing single family dwelling units. Any mortgage loan to be so purchased shall have been made to a mortgagor who as of the date of the mortgage loan was a person or family of low or moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations. The sales price for the single family dwelling unit to be financed by any such mortgage loan shall comply with any applicable limits established pursuant to subsection C of § 4.1 of these rules and regulations or otherwise established by resolution of the

board. The term of the mortgage loan to be so purchased shall not exceed 50 years, and the date on which the mortgage loan was made shall not precede the date of the issuance of the authority's commitment to purchase such mortgage loan by such numbers of years as the executive director may from time to time prescribe. The original principal amount of the mortgage loan shall not exceed the limits set forth in subsection E of § 4.1 of the rules and regulations ; ~~provided, however, that in the case of a mortgage loan guaranteed or insured by the Veterans' Administration, the original principal amount of the Authority mortgage loan shall not exceed one hundred (100%) percent of the sales price of the Single family dwelling unit, to the extent such sales price is approved by the executive director .~~

B. The processing of applications for the purchase of mortgage loans pursuant to this § 7.2 will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations. If the applicant and the application meet the requirements of the Act, these rules and regulations and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the executive director may issue on behalf of the authority a commitment to the mortgage lender to purchase such mortgage loan, subject to the approval or ratification thereof by the authority board. Such commitment shall include such terms and conditions as the executive director shall consider necessary or appropriate with respect to such purchase of the mortgage loan.

§ 7.3. Purchase of mortgage loans to finance multi-family dwelling units.

A. The authority may from time to time purchase from mortgage lenders mortgage loans which at the time of such purchase are financing multi-family dwelling units. The term of the mortgage loan to be so purchased shall not exceed 50 years, including the period (if any) of development and construction or rehabilitation. The date on which the mortgage loan was made shall not precede the date of the issuance of the authority's commitment to purchase such mortgage loan by such number of years as the executive director may from time to time prescribe. Any mortgage loan to be so purchased shall comply with, and shall be subject to, the provisions of §§ 2.3 and 2.5 of these rules and regulations and such other provisions of Part II of these rules and regulations as the resolution authorizing the purchase of such mortgage loan, or the commitment issued pursuant thereto, shall require.

B. The processing of application for the purchase of mortgage loans pursuant to this § 7.3 will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

Upon satisfactory completion of the processing of such application by the authority staff in accordance with the aforesaid procedures, instructions and guidelines and

approval of the application by the executive director, the authority staff's analysis of the application and the executive director's recommendation with respect thereto shall be presented to the board.

The board shall review each such analysis and recommendation and, if it determines that the application meets the requirements of the Act, these rules and regulations and the authority's procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the board may by resolution authorize the purchase of the mortgage loan and the issuance of a commitment with respect thereto.

Such resolution, or the authority commitment issued by the executive director pursuant to such resolution, shall include such terms and conditions as the authority considers appropriate with respect to any construction or rehabilitation of the housing development, the marketing and occupancy of such housing development, the disbursement and repayment of the mortgage loan, and other matters related to the financing of the housing development. Such resolution or authority commitment may include a financial analysis of the housing development, which shall set forth the initial schedule of rents, the initial budget approved by the authority for operation of the housing development and, if applicable, a schedule of the estimated housing development costs. Subsequent to adoption of such resolution, the executive director may increase the principal amount of the mortgage loan in accordance with the provisions of subsection C of § 2.2 of these rules and regulations.

§ 7.4. Requests for proposals; reinvestment of proceeds; certification as to prudent investment.

A. The executive director may from time to time request mortgage lenders to submit offers to sell mortgage loans to the authority in such manner, within such time period and subject to such terms and conditions as he shall specify in such request. The executive director may take such action as he shall deem necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to mortgage lenders, advertising in newspapers or other publications, and any other methods of public announcement which he may select as appropriate under the circumstances. The executive director may also consider and accept offers for sale of individual mortgage loans submitted from time to time to the authority without any solicitation therefor by the authority.

B. The authority shall require as a condition of the purchase of any mortgage loans from a mortgage lender pursuant to this Part VII that such mortgage lender within 180 days from the receipt of proceeds of such purchase shall enter into written commitments to make, and shall thereafter proceed as promptly as practical to make and disburse from such proceeds, residential mortgage loans in the Commonwealth of Virginia having a stated maturity of not less than 20 years from the date thereof in an

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aggregate principal amount equal to the amount of such proceeds.

C. At or before the purchase of any mortgage loan pursuant to this Part VII, the mortgage lender shall certify to the authority that the mortgage loan would in all respects be a prudent investment and that the proceeds of the purchase of the mortgage loan shall be reinvested as provided in subsection B of this section or invested in short-term obligations pending such investment.

D. The purchase price for any mortgage loan to be purchased by the authority pursuant to this Part VII shall be established in accordance with *subdivision 2 of § 36-55.35* ~~(2)~~ of the Code of Virginia.

* * * * *

Title of Regulation: VR 400-02-0001. Procedures, Instructions and Guidelines for Multi-Family Housing Developments.

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Effective Date: July 1, 1987

Summary:

The amendments to the Procedures, Instructions and Guidelines for Multi-Family Housing Developments implement certain legislative amendments to the Virginia Housing Development Authority Act by specifying that the "original principal amount" of mortgage loans to housing sponsors of multi-family rental housing developments may not exceed the statutory maximum amount, by making discretionary such housing sponsors' maximum annual limited dividend distribution, by permitting such housing sponsors' equity to be determined based on fair market value, by providing that the authority's regulatory powers (including, without limitation, the powers to control rents and require certification of costs) to supervise such housing sponsors under § 36-55.34:1 of the Code of Virginia shall be subject to the terms of agreements relating to the authority mortgage loan and by authorizing the inclusion of nursing care and medical facilities in multi-family rental developments. The amendments clarify the manner for determining adjusted family income for multi-family housing developments financed or otherwise assisted by the federal government. Under the amendments the percentage of limited partnership interests which, if transferred within a 12 month period, requires prior approval by the authority is reduced from 90% to 50%. The amendments modify the present policy regarding prepayment by providing that prepayments shall be prohibited for such period of time set forth in the note as the executive director shall determine to accomplish the authority's public purpose.

VR 400-02-0001. Procedures, Instructions and Guidelines for Multi-Family Housing Developments.

§ 1. Purpose and applicability.

The following procedures, instructions and guidelines will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the Virginia Housing Development Authority (the "authority") to mortgagors to provide the construction and/or permanent financing of multi-family housing developments intended for occupancy by persons and families of low and moderate income ("development" or "developments"). These procedures, instructions and guidelines shall be applicable to the making of such mortgage loans directly by the authority to mortgagors, the purchase of such mortgage loans, the participation by the authority in such mortgage loans with mortgage lenders and any other manner of financing of such mortgage loans under the Virginia Housing Development Authority Act (the "Act"). These procedures, instructions and guidelines shall not, however, apply to any developments which are subject to any other procedures, instructions and guidelines adopted by the authority. If any mortgage loan is to provide either the construction or permanent financing (but not both) of a development, these procedures, instructions and guidelines shall be applicable to the extent determined by the executive director to be appropriate for such financing. If any development is subject to federal mortgage insurance or is otherwise assisted or aided, directly or indirectly, by the federal government, the applicable federal rules and regulations shall be controlling over any inconsistent provision. Furthermore, if the mortgage loan on any development is to be insured by the federal government, the provisions of these procedures, instructions and guidelines shall be applicable to such development only to the extent determined by the executive director to be necessary in order to ~~(a)~~ (i) protect any interest of the authority which, in the judgment of the executive director, is not adequately protected by such insurance or by the implementation or enforcement of the applicable federal rules, regulations or requirements or ~~(b)~~ (ii) to comply with the Act or fulfill the authority's public purpose and obligations thereunder. Developments shall include housing intended to be owned and operated on a cooperative basis. The term "construction", as used herein, shall include the rehabilitation, preservation or improvement of existing structures.

These procedures, instructions and guidelines shall supersede the processing procedures, instructions and guidelines adopted by the authority on ~~September 17, 1973~~ January 17, 1984.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any development to waive or modify any provision herein where deemed appropriated by him for good cause, to the extent not inconsistent with the Act, the authority's rules and regulations, and covenants and agreements with the

holders of its bonds.

"Executive director" as used herein refers to the executive director of the authority or any other officer or employee of the authority who is authorized to act on behalf of the authority pursuant to a resolution of the Board of Commissioners of the authority (the "board").

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these procedures, instructions and guidelines shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority, the mortgagor, the contractor or other members of the development team under the initial closing documents as described in § 7 of these procedures, instructions and guidelines.

These procedures, instructions and guidelines are intended to provide a general description of the authority's processing requirements and not intended to include all actions involved or required in the processing and administration of mortgage loans under the authority's multi-family housing programs. These procedures, instructions and guidelines are subject to change at any time by the authority and may be supplemented by policies, procedures, instructions and guidelines adopted by the authority from time to time with respect to any particular development or developments or any multi-family housing program or programs.

§ 2. *Income limits and general description restrictions* .

Under the authority's rules and regulations, to be eligible for occupancy of a multi-family dwelling unit, a person or family shall not have an adjusted family income (as defined therein) greater than seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit. The authority's rules and regulations authorize its board to establish from time to time by resolution lower income limits for initial occupancy.

In the case of developments for which the authority has agreed to permit the mortgagor to establish and change rents without the prior approval of the authority (as described in § 11 of these procedures, instructions and guidelines), at least 20% of the units in each such development shall be occupied or held available for occupancy by persons and families whose incomes (at the time of their initial occupancy) do not exceed 80% of the area median income as determined by the authority, and the remaining units shall be occupied or held available for occupancy by persons and families whose incomes (at the time of their initial occupancy) do not exceed 150% of such area median income as so determined.

Futhermore, in the case of developments which are subject to federal mortgage insurance or assistance or are financed by notes or bonds exempt from federal income

taxation, federal regulations may establish lower income limitations which in effect supersede the authority's income limits as described above.

If federal law or rules and regulations impose limitations on the incomes of the persons or families who may occupy all or any of the units in a development, the adjusted family incomes (as defined in the authority's rules and regulations) of applicants for occupancy of all of the units in the development shall be computed, for the purpose of determining eligibility for occupancy thereof under the authority's rules and regulations and these procedures, instructions and guidelines, in the manner specified in such federal law and rules and regulations, subject to such modifications as the executive director shall require or approve in order to facilitate processing, review and approval of such applications.

Notwithstanding anything to the contrary herein, all developments and the processing thereof under the terms hereof must comply with (i) the Act and the authority's rules and regulations; (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued by the authority to finance such developments; (iii) in the case of developments subject to federal mortgage insurance or other assistance, all applicable federal laws and regulations relating thereto; and (iv) the requirements set forth in the resolutions pursuant to which the notes or bonds are issued by the authority to finance the developments. Copies of the authority's note and bond resolutions are available upon request.

§ 3. *Terms of mortgage loans.*

The authority may make or finance mortgage loans secured by a lien on real property or, subject to certain limitations in the Act, a leasehold estate in order to finance development intended for occupancy by persons and families of low and moderate income. The term of the mortgage loan shall be equal to (i) if the mortgage loan is to finance the construction of the proposed development, the period determined by the executive director to be necessary to: (1) complete construction of the development, (2) achieve sufficient occupancy to support the development and (3) consummate the final closing of the mortgage loan; plus (ii) if the mortgage loan is to finance the ownership and operation of the proposed development, an amortization period set forth in the mortgage loan commitment but not to exceed 45 years. The executive director may require that such amortization period not extend beyond the termination date of any federal insurance, assistance or subsidy.

Mortgage loans may be made to: (i) limited for-profit housing sponsors in *original principal* amounts not to exceed the lesser of the maximum principal amount specified in the mortgage loan commitment or such percentage of the housing development costs of the development as is established in such commitment, but in no event to exceed 95%; and (ii) nonprofit housing

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sponsors in *original principal* amounts not to exceed the lesser of the minimum principal amount specified in the mortgage loan commitment or such percentage of the housing development costs of the development as is established in such commitment, but in no event to exceed 100%.

The maximum principal amount and percentage of housing development costs specified or established in the mortgage loan commitment shall be determined by the authority in such manner and based upon such factors as it deems relevant to the security of the mortgage loan and fulfillment of its public purpose. Such factors may include the fair market value of the proposed development as completed, the economic feasibility and marketability of the proposed development at the rents necessary to pay the debt service on the mortgage loan and the operating expenses of the proposed development, and the income levels of the persons and families who would be able to afford to pay such rents.

In accordance with the authority's rules and regulations, the executive director is authorized to prepare and from time to time revise a cost certification guide for mortgagors, contractors and certified public accountants (the "cost certification guide") which shall, *unless otherwise agreed to by the authority*, govern the extent to which costs may be eligible for inclusion in the housing development costs as determined by the authority at final closing. Copies of such guide are available upon request.

The interest rate on the mortgage loan shall be established at the initial closing and may be thereafter adjusted in accordance with the authority's rules and regulations and terms of the deed of trust note. The authority shall charge a financing fee equal to 2.5% of the mortgage loan amount, unless the executive director shall for good cause require the payment of a different financing fee. Such fee shall be payable at such times as hereinafter provided or at such other times as the executive director shall for good cause require.

§ 4. Solicitation of proposals.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit proposals for the financing of developments. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of proposals and the selection of developments as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which available funds of the authority are to be allocated and such other matters as he shall deem appropriate relating to the selection of proposals.

The authority may also consider and approve proposals for financing of developments submitted from time to time to the authority without any solicitation therefor on the part of the authority.

§ 5. Application and acceptance for processing.

Application for a mortgage loan shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe, together with such documents and additional information as may be requested by the authority, including, but not limited to: initial site, elevation and unit plans; information with respect to the status of the proposed development site and the surrounding community; any option or sales contract to acquire the site; an evaluation of the need and effective demand for the proposed development in the market area of such site; information regarding the legal, business and financial status and experience of the members of the applicant's proposed development team and of the principals in any entity which is a member thereof, including current financial statements (which shall be audited in the case of a business entity) for the mortgagor (if existing), the general contractor and the principals therein; information regarding amenities and services proposed to be offered to the tenants; a preliminary estimate of the housing development costs and the individual components thereof; the proposed schedule of rents; a preliminary estimate of the annual operating budget and the individual components thereof; the estimated utility expenses to be paid by the tenants of dwelling units in the proposed development; and the amount of any federal insurance, subsidy or assistance which the applicant is requesting for the proposed development.

The authority's staff shall review each application and any additional information submitted by the applicant or obtained from other sources by the authority in its review of each proposed development. Such review shall be performed in accordance with *subdivision 2 of subsection D of § 36-55.33:1 D-2* of the Code of Virginia and shall include, but not be limited to, the following:

1. An analysis of the site characteristics, surrounding land uses, available utilities, transportation, employment opportunities, recreational opportunities, shopping facilities and other factors affecting the site;
2. An evaluation of the ability, experience and financial capacity of the applicant and general contractor and the qualifications of the architect, management agent and other members of the proposed development team;
3. A preliminary evaluation of the estimated construction costs and the proposed design and structure of the proposed development;
4. A preliminary review of the estimated operating expenses and proposed rents and a preliminary

evaluation of the adequacy of the proposed rents to sustain the proposed development based upon the assumed occupancy rate and estimated construction and financing costs; and

5. A preliminary evaluation of the marketability of the proposed development.

Based on the authority's review of the applications, documents and any additional information submitted by the applicants or obtained from other sources by the authority in its review of the proposed developments, the executive director shall accept for processing those applications which he determines best satisfy the following criteria:

1. The vicinity of the proposed development is and will continue to be a residential area suitable for the proposed development and is not now, nor is it likely in the future to become, subject to uses or deterioration which could cause undue depreciation in the value of the proposed development or which could adversely affect its operation, marketability or economic feasibility.

2. There are or will be available on or before the estimated completion date ~~(1)~~ (i) direct access to adequate public roads and utilities and ~~(2)~~ (ii) such public and private facilities (such as schools, churches, transportation, retail and service establishments, parks, recreational facilities and major public and private employers) in the area of the proposed development as the executive director determines to be necessary or desirable for use and enjoyment by the contemplated residents.

3. The characteristics of the site (such as its size, topography, terrain, soil and subsoil conditions, vegetation, and drainage conditions) are suitable for the construction and operation of the proposed development, and the site is free from any defects which would have a materially adverse effect on such construction and operation.

4. The location of the proposed development will promote and enhance the marketability of the units to the person and families intended for occupancy thereof.

5. The applicant either owns or leases the site of the proposed development or has the legal right to acquire or lease the site in such manner, at such time and subject to such terms as will permit the applicant to process the application and consummate the initial closing.

6. The design of the proposed development is attractive and esthetically appealing, will contribute to the marketability of the proposed development, makes use of materials to reduce energy and maintenance costs, provides for a proper mix of units for the

residents intended to be benefitted by the authority's program, provides for units with adequate, well-designed space, includes equipment and facilities customarily used or enjoyed in the area by the contemplated residents, and will otherwise provide a safe, habitable and pleasant living environment for such residents.

7. Subject to further review and evaluation by the authority's staff under § 6 of these procedures, instructions, and guidelines, the estimated construction costs and operating expenses appear to be complete, reasonable and comparable to those of similar developments.

8. Subject to further review and evaluation by the authority's staff under § 6 of these procedures, instructions, and guidelines, the proposed rents appear to be at levels which will: (i) be affordable by the persons and families intended to be assisted by the authority; (ii) permit the successful marketing of the units to such persons and families; and (iii) sustain the operation of the proposed development.

9. The applicant and general contractor have the experience, ability and financial capacity necessary to carry out their respective responsibilities for the acquisition, construction, ownership, operation, marketing, maintenance and management of the proposed development.

10. The architect, management agent and other members of the proposed development team have the qualifications necessary to perform their respective functions and responsibilities.

11. The application and proposed development conform to the requirements, limitations and conditions, if any, imposed by the executive director pursuant to § 4 of these procedures, instructions and guidelines.

12. The proposed development will contribute to the implementation of the policies and programs of the authority in providing decent, safe and sanitary rental housing for low and moderate income persons and families who cannot otherwise afford such housing and will assist in meeting the need for such housing in the market area of the proposed development.

13. It appears that the proposed development and applicant will be able to meet the requirements for feasibility and commitment set forth in § 6 of these procedures, instructions and guidelines and that the proposed development will otherwise continue to be processed through initial closing and will be completed and operated, all in compliance with the Act and the authority's rules and regulations, the documents and contracts executed at initial closing, applicable federal laws, rules and regulations, and the provisions of these procedures, instructions and guidelines and without

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unreasonable delay, interruptions or expense.

If only one application is being reviewed for acceptance for processing, the executive director shall accept such application for processing if he determines that such application adequately satisfies the foregoing criteria.

In the selection of an application or applications for processing, the executive director may take into account the desirability of allocating funds to different sponsors throughout the Commonwealth of Virginia.

Applications shall be selected only to the extent that the authority has or expects to have funds available from the sale of its notes or bonds to finance mortgage loans for the proposed developments.

Nothing contained herein shall require the authority to select any application which, in the judgment of the executive director, does not adequately satisfy the foregoing criteria.

The executive director's determinations with respect to the above criteria shall be based only on the documents and information received or obtained by him at that time and are subject to modification or reversal upon his receipt of additional documents or information at a later time. In addition, the application shall be subject to further review in accordance with § 6 of these procedures, instructions and guidelines.

The executive director may impose such terms and conditions with respect to acceptance for processing as he shall deem necessary or appropriate. If any proposed development is so accepted for processing, the executive director shall notify the sponsor of such acceptance and of any terms and conditions imposed with respect thereto and may require the payment by the sponsor of a nonrefundable processing fee of 0.25% of the estimated mortgage loan amount. Such fee shall be applied at initial closing toward the payment of the authority's financing fee.

If the executive director determines that a proposed development to be accepted for processing does not adequately satisfy one or more of the foregoing criteria, he may nevertheless accept such proposed development for processing subject to satisfaction of the applicable criteria in such manner and within such time period as he shall specify in his notification of acceptance. If the executive director determines not to accept any proposed development for processing, he shall so notify the sponsor.

§ 6. Feasibility and commitment.

In order to continue the processing of the application, the applicant shall file, within such time limit as the executive director shall specify, such forms, documents and information as the executive director shall require with respect to the feasibility of the proposed development, including without limitation the following:

1. Any additions, modifications or other changes to the application and documents previously submitted as may be necessary or appropriate to make the information therein complete, accurate and current;

2. Architectural and engineering plans, drawings and specifications in such detail as shall be necessary or appropriate to determine the requirements for construction of the proposed development;

3. The applicant's (i) best estimates of the housing development costs and the components thereof; (ii) proposed mortgage loan amount; (iii) proposed rents; (iv) proposed annual operating budget and the individual components thereof; (v) best estimates of the monthly utility expenses and other costs for each dwelling unit if paid by the resident; and (vi) amount of any federal insurance, subsidy or assistance that the applicant is requesting for the proposed development. The applicant's estimates shall be in such detail and with such itemization and supporting information as shall be requested by the executive director;

4. The applicant's management, marketing and tenant selection plans, including description and analysis of marketing and tenant selection strategies, techniques and procedures to be followed in marketing the units and selecting tenants; and

5. Any documents required by the authority to evidence compliance with all conditions and requirements necessary to acquire, own, construct, operate and manage the proposed development, including local governmental approvals, proper zoning status, availability of utilities, licenses and other legal authorizations necessary to perform requisite functions and any easements necessary for the construction and operation of the development.

The executive director may for good cause permit the applicant to file one or more of the foregoing forms, documents and information at a later time, and any review, analysis, determination or other action by the authority or the executive director prior to such filing shall be subject to the receipt, review and approval by the executive director of such forms, documents and information.

An appraisal of the land and any improvements to be retained and used as a part of the development will be obtained at this time or as soon as practical thereafter from an independent real estate appraiser selected by the authority. The authority may also obtain such other reports, analyses, information and data as the executive director deems necessary or appropriate to evaluate the proposed development.

If at any time the executive director determines that the applicant is not processing the application with due diligence and best efforts or that the application cannot be

successfully processed to commitment and initial closing within a reasonable time, he may, in his discretion, terminate the application and retain any fees previously paid to the authority.

The authority staff shall review and evaluate the documents and information received or obtained pursuant to this § 6. Such review and evaluation shall include, but not be limited to, the following:

1. An analysis of the estimates of construction costs and the proposed operating budget and an evaluation as to the economic feasibility of the proposed development;
2. A market analysis as to the present and projected demand for the proposed development in the market area, including: (i) an evaluation of existing and future market conditions; (ii) an analysis of trends and projections of housing production, employment and population for the market area; (iii) a site evaluation (such as access and topography of the site, neighborhood environment of the site, public and private facilities serving the site and present and proposed uses of nearby land); and (iv) an analysis of competitive projects;
3. A review of the management, marketing and tenant selection plans, including their effect on the economic feasibility of the proposed development and their efficacy in carrying out the programs and policies of the authority;
4. A final review of the (i) ability, experience and financial capacity of the applicant and general contractor; and (ii) the qualifications of the architect, management agent and other members of the proposed development team.
5. An analysis of the architectural and engineering plans, drawings and specifications, including the functional use and living environment for the proposed residents, the marketability of the units; the amenities and facilities to be provided to the proposed residents; and the management, maintenance and energy conservation characteristics of the proposed development.

Based upon the authority staff's analysis of such documents and information and any other information obtained by the authority in its review of the proposed development, the executive director shall prepare a recommendation to the board that a mortgage loan commitment be issued to the applicant with respect to the proposed development only if he determines that all of the following criteria have been satisfied:

1. Based on the data and information received or obtained pursuant to this § 6, no material adverse change has occurred with respect to compliance with the criteria set forth in § 5 of these procedures,

instructions and guidelines.

2. The applicant's estimates of housing development costs: (i) include all costs necessary for the development and construction of the proposed development; (ii) are reasonable in amount; (iii) are based upon valid data and information; and (iv) are comparable to costs for similar multi-family rental developments; provided, however, that if the applicant's estimates of such costs are insufficient in amount under the foregoing criteria, such criteria may nevertheless be satisfied if, in the judgment of the executive director, the mortgagor will have the financial ability to pay any costs estimated by the executive director to be in excess of the total of the applicant's estimates of housing development costs.

3. Subject to review by the authority at final closing, the categories of the estimated housing development costs to be funded from the proceeds of the mortgage loan are eligible for such funding under the authority's cost certification guide *or under such other requirements as shall be agreed to by the authority*.

4. Any administrative, community, health, *nursing care, medical*, educational, recreational, commercial or other nonhousing facilities to be included in the proposed development are incidental *or related* to the proposed development and are necessary, convenient or desirable with respect to the ownership, operation or management of the proposed development.

5. All operating expenses (including replacement and other reserves) necessary or appropriate for the operation of the proposed development are included in the proposed operating budget, and the estimated amounts of such operating expenses are reasonable, are based on valid data and information and are comparable to operating expenses experienced by similar developments.

6. Based upon the proposed rents and projected occupancy level required or approved by the executive director, the estimated income from the proposed development is reasonable. The estimated income may include: (i) rental income from commercial space within the proposed development if the executive director determines that a strong, long-term market exists for such space; and (ii) income from other sources relating to the operation of the proposed development if determined by the executive director to be reasonable in amount and comparable to such income received on similar developments.

7. The estimated income from the proposed development, including any federal subsidy or assistance, is sufficient to pay when due the estimates of the debt service on the mortgage loan, the operating expenses, and replacement and other reserves required by the authority.

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8. The units will be occupied by persons and families intended to be served by the proposed development and qualified under the Act and the authority's rules and regulations, and any applicable federal laws, rules and regulations. Such occupancy of the units will be achieved in such time and manner that the proposed development will (i) attain self-sufficiency (i.e., the rental and other income from the development is sufficient to pay all operating expenses, debt service and replacement and other required reserves and escrows) within the usual and customary time for a development for its size, nature, location and type, and without any delay in the commencement of amortization; and (ii) will continue to be self-sufficient for the full term of the mortgage loan.

9. The estimated utility expenses and other costs to be paid by the residents are reasonable, are based upon valid data and information and are comparable to such expenses experienced by similar developments, and the estimated amounts of such utility expenses and costs will not have a materially adverse effect on the occupancy of the units in accordance with item 8 above.

10. The architectural drawings, plans and specifications shall demonstrate that: (i) the proposed development as a whole and the individual units therein shall provide safe, habitable, and pleasant living accommodations and environment for the contemplated residents; (ii) the dwelling units of the proposed housing development and the individual rooms therein shall be furnishable with the usual and customary furniture, appliances and other furnishings consistent with their intended use and occupancy; and (iii) the proposed housing development shall make use of measures promoting environmental protection, energy conservation and maintenance and operating efficiency to the extent economically feasible and consistent with the other requirements of this § 6.

11. The proposed development includes such appliances, equipment, facilities and amenities as are customarily used or enjoyed by the contemplated residents in similar developments.

12. The management plan includes such management procedures and requirements as are necessary for the proper and successful operations, maintenance and management of the proposed development in accordance with these procedures, instructions and guidelines.

13. The marketing and tenant selection plans submitted by the applicant shall comply with the authority's rules and regulations and shall provide for actions to be taken such that: (i) the dwelling units in the proposed development will be occupied in accordance with item 8 above and any applicable federal laws, rules and regulations by those eligible persons and families who are expected to be served

by the proposed development; (ii) the residents will be selected without regard to race, color, religion, creed, sex or national origin; and (iii) units intended for occupancy by handicapped and disabled persons will be adequately and properly marketed to such persons and such persons will be given priority in the selection of residents for such units. The tenant selection plan shall describe the requirements and procedures (including any occupancy criteria and priorities established pursuant to § 11 of these procedures, instructions and guidelines) to be applied by the mortgagor in order to select those residents who are intended to be served by the proposed development and who are best able to fulfill their obligation and responsibilities as residents of the proposed development.

14. In the case of any development to be insured or otherwise assisted or aided by the federal government, the proposed development will comply in all respects with any applicable federal laws, rules and regulations, and adequate federal insurance, subsidy, or assistance is available for the development and will be expected to remain available in the due course of processing with the applicable federal agency, authority or instrumentality.

15. The proposed development will comply with: (i) all applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued or to be issued by the authority to finance the proposed development; and (ii) all requirements set forth in the resolutions pursuant to which such notes or bonds are issued or to be issued.

16. The prerequisites necessary for the members of the applicant's development team to acquire, own, construct or rehabilitate, operate and manage the proposed development have been satisfied or can be satisfied prior to initial closing. These prerequisites include, but are not limited to obtaining: (i) site plan approval; (ii) proper zoning status; (iii) assurances of the availability of the requisite public utilities; (iv) commitments by public officials to construct such public improvements and accept the dedication of streets and easements that are necessary or desirable for the construction and use of the proposed development; (v) licenses and other legal authorizations necessary to permit each member to perform his or its duties and responsibilities in the Commonwealth of Virginia; (vi) building permits; and (vii) fee simple ownership of the site, a sales contract or option giving the applicant or mortgagor the right to purchase the site for the proposed development and obtain fee simple title, or a leasehold interest of the time period required by the Act (any such ownership or leasehold interest acquired or to be acquired shall be free of any covenants, restrictions, easements, conditions, or other encumbrances which would adversely affect the authority's security or the construction or operation of the proposed

development).

17. The proposed development will comply with all applicable state and local laws, ordinances, regulations, and requirements.

18. The proposed development will provide valid and sound security for the authority's mortgage loan and will contribute to the fulfillment of the public purposes of the authority as set forth in its Act.

19. Subject to a final determination by the board, the financing of the proposed development will meet the applicable requirements set forth in § 36-55.39 of the Code of Virginia.

If the executive director determines that the foregoing criteria are satisfied and that he will recommend approval of the application and issuance of the commitment, he shall present his analysis and recommendations to the board. If the executive director determines that one or more of the foregoing criteria have not been adequately satisfied, he may nevertheless in his discretion recommend to the board that the application be approved and that a mortgage loan commitment be issued subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate. Prior to the presentation of his recommendations to the board, the executive director may require the payment by the applicant of a nonrefundable processing fee in an amount equal to 0.5% of the then estimated mortgage loan amount less any processing fees previously paid by the applicant. Such fee shall be applied at initial closing toward the payment of the authority's financing fee.

The board shall review and consider the analysis and recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize the issuance of a commitment, subject to such terms and conditions as the board shall require in such resolution. Such resolution and the commitment issued pursuant thereto shall in all respects conform to the requirements of the authority's rules and regulations.

If the executive director determines not to recommend approval of the application and issuance of a commitment, he shall so notify the applicant. If any application is not so recommended for approval, the executive director may select for processing one or more applications in its place.

§ 7. Initial closing.

Upon issuance of the commitment, the applicant shall direct its attorney to prepare and submit the legal documentation (the "initial closing documents") required by the commitment within the time period specified. When the initial closing documents have been submitted and approved by the authority staff and all other requirements in the commitment have been satisfied, the initial closing of the mortgage loan shall be held. At this closing, the

initial closing documents shall be, where required, executed and recorded, and the mortgagor will pay to the authority the balance owed on the financing fee, will make any initial equity investment required by the initial closing documents and will fund such other deposits, escrows and reserves as required by the commitment. The initial disbursement of mortgage loan proceeds will be made by the authority, if appropriate under the commitment and the initial closing documents.

The actual interest rate on the mortgage loan shall be established by the executive director at the time of the execution of the deed of trust note at initial closing and may thereafter be altered by the executive director in accordance with the authority's rules and regulations and the terms of such note.

The executive director may require such accounts, reserves, deposits, escrows, bonds, letters of credit and other assurances as he shall deem appropriate to assure the satisfactory construction, completion, occupancy and operation of the development, including without limitation one or more of the following: working capital deposits, construction contingency funds, operating reserve accounts, payment and performance bonds or letters of credit, latent construction defect escrows, replacement reserves, and tax and insurance escrows. The foregoing shall be in such amounts and subject to such terms and conditions as the executive director shall require and as shall be set forth in the initial closing documents.

§ 8. Construction.

The construction of the development shall be performed in accordance with the initial closing documents. The authority shall have the right to inspect the development as often as deemed necessary or appropriate by the authority to determine the progress of the work and compliance with the initial closing documents and to ascertain the propriety and validity of mortgage loan disbursements requested by the mortgagor. Such inspections shall be made for the sole and exclusive benefit and protection of the authority. A disbursement of mortgage loan proceeds may only be made upon a determination by the authority that the terms and conditions of the initial closing documents with respect to any such disbursement have been satisfied; provided, however, that in the event that such terms and conditions have not been satisfied, the executive director may, in his discretion, permit such disbursement if additional security or assurance satisfactory to him is given. The amount of any disbursement shall be determined in accordance with the terms of the initial closing documents and shall be subject to such retainage or holdback as is therein prescribed.

§ 9. Completion of construction and final closing.

The initial closing documents shall specify those requirements and conditions that must be satisfied in order for the development to be deemed to have attained

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final completion. Upon such final completion of the development, the mortgagor, general contractor, and any other parties required to do so by the initial closing documents shall each diligently commence, complete and submit to the authority for review and approval their cost certification in accordance with the authority's cost certification guide or in accordance with such other requirements as shall have been agreed to by the authority .

Prior to or concurrently with final closing, the mortgagor, general contractor and other members of the development team shall perform all acts and submit all contracts and documents required by the initial closing documents in order to attain final completion, make the final disbursement of mortgage loan proceeds, obtain any federal insurance, subsidy or assistance and otherwise consummate the final closing.

At the final closing, the authority shall determine the following in accordance with the initial closing documents:

1. The total development costs, *the fair market value of the development (if such value is to be used to determine the mortgagor's equity investment)*, the final mortgage loan amount, the balance of mortgage loan proceeds to be disbursed to the mortgagor, the equity investment of the mortgagor and , *if applicable*, the maximum amount of annual limited dividend distributions;
2. The interest rate to be applied initially upon commencement of amortization, the date for commencement and termination of the monthly amortization payments of principal and interest, the amount of such monthly amortization payments, and the amounts to be paid monthly into the escrow accounts for taxes, insurance, replacement reserves, or other similar escrow items; and
3. Any other funds due the authority, the mortgagor, general contractor, architect or other parties that the authority requires to be disbursed or paid as part of the final closing.

Within such period of time as is specified in the Authority's cost certification guide, *Unless otherwise agreed to by the authority*, the mortgagor and contractor shall , *within such period of time as is specified in the authority's cost certification guide*, submit supplemental cost certifications, and the authority shall have the right to make such adjustments to the foregoing determinations as it shall deem appropriate as a result of its review of such supplemental cost certification.

If the mortgage loan commitment and initial closing documents so provide and subject to such terms and conditions as shall be set forth therein, the equity shall be adjusted subsequent to final closing to an amount equal to the difference, as of the date of adjustment, between the fair market value of the development and the outstanding

principal balance of the mortgage loan.

§ 10. Mortgage loan increases.

Prior to initial closing, the principal amount of the mortgage loan may be increased, if such an increase is justified by an increase in the estimated costs of the proposed development, is necessary or desirable to effect the successful construction and operation of the proposed development, can be funded from available proceeds of the authority's notes or bonds, and is not inconsistent with the provisions of the Act or the authority's rules and regulations or any of the provisions of these procedures, instructions and guidelines. Any such increase shall be subject to such terms and conditions as the authority shall require.

Subsequent to initial closing, the authority will consider and, where appropriate, approve a mortgage loan increase to be financed from the proceeds of the authority's notes or bonds in the following instances:

1. Where cost increases are incurred as the direct result of (i) changes in work required or requested by the authority or (ii) betterments to the development approved by the authority which will improve the quality or value of the development or will reduce the costs of operating or maintaining the development;
2. Where cost increases are incurred as a direct result of a failure by the authority during processing of the development to properly perform an act for which the authority is solely responsible;
3. Where a mortgage loan increase is determined by the authority, in its sole and absolute discretion, to be in the best interests of the authority in protecting its security for the mortgage loan; or
4. Where the authority has entered into an agreement with the mortgagor prior to initial closing to provide a mortgage loan increase if certain cost overruns occur in agreed line items, but only to the extent set forth in such agreement.

In the event that a person or entity acceptable to the authority is prepared to provide financing on a participation basis on such terms and conditions as the authority may require, the authority will consider and, where appropriate, approve an increase in its mortgage loan subsequent to initial closing to the extent of the financing by such person or entity in any of the following instances:

1. One or more of the instances set forth in 1 through 4 above; or
2. Where costs are incurred which are:
 - a. In excess of the original total contract sum set forth in the authority's mortgage loan commitment;

b. The direct result of necessary and substantial changes approved by the authority in the original plans and specifications;

c. Evidenced by change orders in accordance with the original contract documents or by other documentation acceptable to the authority; and

d. Approved by the authority for inclusion within the total development cost in accordance with the Act, the authority's rules and regulations and the authority's cost certification guide.

Any such mortgage loan increase to be financed on a participation basis shall be granted only to the extent that such costs cannot be funded from mortgage loan proceeds, any income from the operation of the development approved by the authority for application thereto, and other moneys of the mortgagor available therefor. As used herein, the term "other moneys of the mortgagor" shall include moneys received or to be received as a result of the sale or syndication of limited partnership interest in the mortgagor. In the event that any limited dividend mortgagor shall have sold or syndicated less than 90% of the partnership interests, such term shall include the amount, as determined by the authority, which would have been received upon the sale or syndication of 90% of such interest under usual and customary circumstances.

Any such increase in the mortgage loan subsequent to initial closing may be subject to such terms and conditions as the authority shall require, including (but not limited to) one or more of the following:

1. The ability of the authority to sell bonds to finance the mortgage loan increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only to a mortgage loan to be financed from the proceeds of the authority's notes or bonds).

2. The obtaining by the owner of additional federal subsidy (if the development is to receive such subsidy) in amounts necessary to fund the additional debt service to be paid as a result of such mortgage loan increase. The provision of such additional subsidy shall be made subject to and in accordance with all applicable federal regulations.

3. A determination by the authority that the mortgage loan increase will have no material adverse effect on the financial feasibility or proper operation and maintenance of the development.

4. A determination by the authority that the mortgage loan, as increased, does not exceed such percentage of the total development cost (as certified in accordance with the authority's cost certification guide and as approved by the authority) as is established in the resolution authorizing the mortgage loan in accordance with § 3 of these procedures, instructions and

guidelines.

5. Such terms and conditions as the authority shall require in order to protect the security of its interest in the mortgage loan, to comply with covenants and agreements with the holders of its bonds issued to finance the mortgage loan, to comply with the Act and the authority's rules and regulations, and to carry out its public purpose.

The executive director may, without further action by the board, increase the principal amount of the mortgage loan at any time by an amount not to exceed 2.0% of the maximum principal amount of the mortgage loan set forth in the commitment, provided that such increase is consistent with the Act and the authority's rules and regulations and the provisions of these procedures, instructions and guidelines. Any increase in excess of such 2.0% shall require the approval of the board.

Nothing contained in this § 10 shall impose any duty or obligation on the authority to increase any mortgage loan, as the decision as to whether to grant a mortgage loan increase shall be within the sole and absolute discretion of the authority.

§ 11. Operation, management and marketing.

The development shall be subject to a regulatory agreement entered into at initial closing between the authority and the mortgagor. Such regulatory agreement shall govern the rents, operating budget, occupancy, marketing, management, maintenance, operation, use and disposition of the development and the activities and operation of the mortgagor, as well as the amount of assets or income of the development which may be distributed to the mortgagor.

Only rents established or approved on behalf of the authority pursuant to the regulatory agreement may be charged for dwelling units in the development. *Notwithstanding the foregoing, in the case of any developments financed subsequent to January 1, 1986, the authority may agree with the mortgagor that the rents may be established and changed by the mortgagor without the prior approval of the authority, subject to such restrictions in the regulatory agreement as the authority shall deem necessary to assure that the rents shall be affordable to persons and families intended to be served by the development and subject to compliance by the mortgagor with the provisions in § 2 of these procedures, instructions and guidelines.*

Any costs for supportive services not generally included in the rent for similar developments shall not be funded from the rental income of the development.

If the mortgagor is a partnership, the general partner or partners shall be required to retain at least a 10% interest in the net proceeds from any sale, refinancing or other disposition of the development during the life of the

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mortgage loan.

The mortgagor shall lease the units in the development only to persons and families who are eligible for occupancy thereof as described in § 2 of these procedures, instructions and guidelines. The mortgagor shall comply with the provisions of the authority's rules and regulations regarding: (i) the examination and determination of the income and eligibility of applicants for initial occupancy of the development; and (ii) the periodic reexamination and redetermination of the income and eligibility of residents of the development.

In addition to the eligibility requirements of the authority, the executive director may establish occupancy criteria and priorities based on the following:

- a. 1. The age, family size, financial status, health conditions (including, without limitation, any handicaps or disabilities) and other circumstances of the applicants for the dwelling units;
- b. 2. The status and physical condition of the housing then occupied by such applicants; and
- e. 3. Any other factors or matters which the executive director deems relevant to the effectuation of the public purposes of the authority.

In selecting eligible residents, the mortgagor shall comply with such occupancy criteria and priorities and with the tenant selection plan approved by the authority pursuant to § 6 of these procedures, instructions and guidelines.

The executive director is authorized to prepare and from time to time revise a housing management handbook which shall set forth the authority's procedures and requirements with respect to the management of developments. Copies of the housing management handbook shall be available upon request.

The management of the development shall also be subject to a management agreement entered into at initial closing between the mortgagor and its management agent, or where the mortgagor and the management agent are the same entity, between the authority and the mortgagor. Such management agreement shall govern the policies, practices and procedures relating to the management, marketing and operation of the development. The mortgagor and its management agent (if any) shall manage the development in accordance with the Act, the authority's rules and regulations, the regulatory agreement, the management agreement, the authority's housing management handbook, and the management plan approved by the authority.

The authority shall have the power to supervise the mortgagor and the development in accordance with § 36-55.34:1 of the Code of Virginia *and the terms of the initial closing documents or other agreements relating to*

the mortgage loans. The authority shall have the right to inspect the development, conduct audits of all books and records of the development and to require such reports as the authority deems reasonable to assure compliance with this § 11.

§ 12. Transfers of ownership.

A. It is the authority's policy to evaluate requests for transfers of ownership on a case-by-case basis. The primary goal of the authority is the continued existence of low and moderate income rental housing stock maintained in a financially sound manner and in safe and sanitary condition. Any changes which would, in the opinion of the authority, detrimentally affect this goal will not be approved.

The provisions set forth in this § 12 shall apply only to transfers of ownership to be made subject to the authority's deed of trust and regulatory agreement. Such provisions shall not be applicable to transfers of ownership of developments subject to HUD mortgage insurance, it being the policy of the authority to consent to any such transfer approved by HUD and permitted by the Act and applicable note or bond resolutions.

For the purposes hereof, the terms "transfer of ownership" and "transfer" shall include any *direct* or *indirect* transfer of a partnership or *other ownership* interest (including, without limitation, the withdrawal or substitution of any general partner) or any sale, conveyance or other *direct* or *indirect* transfer of the development or any interest therein; provided, however, that if the owner is not then in default under the deed of trust or regulatory agreement, such terms shall not include: (i) any sale, transfer, assignment or substitution of limited partnership interests prior to final closing of the mortgage loan or; (ii) any sale, transfer, assignment or substitution of limited partnership interests which in any 12 month period constitute in the aggregate 00% 50% or less of the partnership interests in the owner. The term "proposed ownership entity", as used herein, shall mean: (i) in the case of a transfer of a partnership interest, the owner of the development as proposed to be restructured by such transfer; and (ii) in the case of a transfer of the development, the entity which proposes to acquire the development.

B. The proposed ownership entity requesting approval of a transfer of ownership must initially submit a written request to the authority. This request should contain (i) a detailed description of the terms of the transfer; (ii) all documentation to be executed in connection with the transfer; (iii) information regarding the legal, business and financial status and experience of the proposed ownership entity and of the principals therein, including current financial statements (which shall be audited in the case of a business entity); (iv) an analysis of the current physical and financial condition of the development, including a current audited financial report for the development; (v) information regarding the experience and ability of any

proposed management agent; and (vi) any other information and documents requested by the authority relating to the transfer. The request will be reviewed and evaluated in accordance with the following criteria:

1. The proposed ownership entity and the principals therein must have the experience, ability and financial capacity necessary to own, operate and manage the development in a manner satisfactory to the authority.

2. The development's physical and financial condition must be acceptable to the authority as of the date of transfer or such later date as the authority may approve. In order to assure compliance with this criteria, the authority may require any of the following:

a. The performance of any necessary repairs and the correction of any deferred or anticipated maintenance work;

b. The addition of any improvements to the development which, in the judgment of the authority, will be necessary or desirable for the successful marketing of the development, will reduce the costs of operating or maintaining the development, will benefit the residents or otherwise improve the liveability of the development, or will improve the financial strength and stability of the development;

c. The establishment of escrows to assure the completion of any required repairs, maintenance work, or improvements;

d. The establishment of such new reserves and/or such additional funding of existing reserves as may be deemed necessary by the authority to ensure or preserve the financial strength and stability or the proper operation and maintenance of the development; and

e. The funding of debt service payments, accounts payable and reserve requirements such that the foregoing are current at the time of any transfer of ownership.

3. The management agent, if any, to be selected by the proposed ownership entity to manage the development on its behalf must have the experience and ability necessary to manage the development in a manner satisfactory to the authority. The management agent must satisfy the qualifications established by the authority for approval thereof.

If the development is subsidized or otherwise assisted by HUD, the approval by HUD may be required. Any and all documentation required by HUD must be submitted by the proposed ownership entity in conjunction with its request.

C. The authority will charge the proposed ownership

entity a fee of \$5,000 or such higher fee as the executive director may for good cause require. This fee is to be paid at the closing.

D. The amount and terms of any secondary financing (i.e., any portion of the purchase price is to be paid after closing of the transfer of ownership) shall be subject to the review and approval of the authority. Secondary financing which would require a lien on the development is prohibited by the authority's bond resolution and, therefore, will not be permitted or approved. The authority will not provide a mortgage loan increase or other financing in connection with the transfer of ownership. The authority will also not approve a rent increase in order to provide funds for the repayment of any secondary financing. Cash flow (other than limited dividend distributions) shall not be used to repay the secondary financing. Any proposed secondary financing must not, in the determination of the authority, have any material adverse effect on the operation and management of the development, the security of the mortgage loan, the interests of the authority as lender, or the fulfillment of the authority's public purpose under the Act. The authority may impose such conditions and restrictions (including, without limitation, requirements as to sources of payment for the secondary financing and limitations on the remedies which may be exercised upon a nonpayment of the secondary financing) with respect to the secondary financing as it may deem necessary or appropriate to prevent the occurrence of any such adverse effect.

E. In the case of a transfer from a nonprofit owner to a proposed limited for-profit owner, the authority may require the proposed limited for-profit owner to deposit and/or expend funds in such amount and manner and for such purposes and to take such other actions as the authority may require in order to assure that the principal amount of the mortgage loan does not exceed the limitations specified in the Act and the authority's rules and regulations or otherwise imposed by the authority. No transfer of ownership from a nonprofit owner to a limited for-profit owner shall be approved if such transfer would, in the judgment of the authority, affect the tax-exemption of the notes or bonds issued by the authority to finance the development. The authority will not approve any such transfer of ownership if any loss of property tax abatement as a result of such transfer will, in the determination of the authority, adversely affect the financial strength or security of the development.

At the closing of the transfer of the ownership, the total development cost and the equity of a proposed limited for-profit owner shall be determined by the authority. The resolution of the board approving the transfer of ownership shall include a determination of the maximum annual rate, if any, at which distributions may be made by the proposed limited for-profit owner pursuant to the authority's rules and regulations. The proposed limited for-profit owner shall execute and deliver such agreements and documents as the authority may require in order to incorporate the then existing policies, requirements and

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procedures relating to developments owned by ~~limited~~ for-profit owners. The role of the nonprofit owner in the ownership, operation and management of the development subsequent to the transfer of ownership shall be subject to the review and approval of the authority. The authority may require that any cash proceeds received by the nonprofit owner (after the payment of transaction costs and the funding of any fees, costs, expenses, reserves or escrows required or approved by the authority) be used for such charitable or other purposes as the authority may approve.

F. A request for transfer of ownership shall be reviewed by the executive director. If the executive director determines to recommend approval thereof, he shall present his analysis and recommendation to the board. The board shall review and consider the analysis and recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the request and authorize the executive director to consent thereto, subject to such terms and conditions as the board shall require in such resolution.

Notwithstanding the foregoing, if any proposed transfer of a partnership interest is determined by the executive director to be insubstantial in effect and to have no material detrimental effect on the operation and management of the development or the authority's interest therein as lender, such transfer may be approved by him without approval of the board.

After approval of the request, an approval letter will be issued to the mortgagor consenting to the transfer. Such letter shall be contingent upon the delivery and execution of any and all closing documents required by the authority with respect to the transfer of ownership and the fulfillment of any special conditions required by the resolution of the board. The partnership agreement of the proposed ownership entity shall be subject to review by the authority and shall contain such terms and conditions as the authority may require.

The authority may require that the proposed ownership entity execute the then current forms of the authority's mortgage loan documents in substitution of the existing mortgage loan documents and/or to execute such amendments to the existing mortgage loan documents as the authority may require in order to cause the provisions of such documents to incorporate the then existing policies, procedures and requirements of the authority. At the closing of the transfer, all documents required by the approval letter shall be, where required, executed and recorded; all funds required by the approval letter will be paid or deposited in accordance therewith; and all other terms and conditions of the approval letter shall be satisfied. If deemed appropriate by the executive director, the original mortgagor shall be released from all liability and obligations which may thereafter arise under the documents previously executed with respect to the development.

In the case of a development which is in default or which is experiencing or is expected by the authority to experience financial, physical or other problems adversely affecting its financial strength and stability or its proper operation, maintenance or management, the authority may waive or modify any of the requirements herein as it may deem necessary or appropriate in order to assist the development and/or to protect the authority's interest as lender.

§ 13. Prepayments.

It shall be the policy of the authority that no prepayment of a mortgage loan shall be made without its prior written consent *for such period of time set forth in the note evidencing the mortgage loan as the executive director shall determine, based upon his evaluation of then existing conditions in the financial and housing markets, to be necessary to accomplish the public purpose of the authority.* The authority may prohibit the prepayment of mortgage loans during such period of time as deemed necessary by the authority to assure compliance with *applicable note and bond resolutions and with federal laws and regulations governing the federal tax exemption of the notes or bonds issued to finance such mortgage loans.* Requests for prepayment shall be reviewed by the executive director on a case-by-case basis. In reviewing any request for prepayment, the executive director shall consider such factors as he deems relevant, including without limitation the following: (i) the proposed use of the development subsequent to prepayment; (ii) any actual or potential termination or reduction of any federal subsidy or other assistance; (iii) the current and future need and demand for low and moderate housing in the market area of the development; (iv) the financial and physical condition of the development; (v) the financial effect of prepayment on the authority and the notes or bonds issued to finance the development; and (vi) compliance with any applicable federal laws and regulations governing the federal tax exemption of such notes or bonds. As a precondition to its approval of any prepayment, the authority shall have the right to impose restrictions, conditions and requirements with respect to the ownership, use, operation and disposition of the development, including without limitation any restrictions or conditions required in order to preserve the federal tax exemption of notes or bonds issued to finance the development. The authority shall also have the right to charge a prepayment fee in an amount determined in accordance with the terms of the resolutions authorizing the notes or bonds issued to finance the development or in such other amount as may be established by the executive director in accordance with the terms of the deed of trust note and such resolutions. The provisions of this § 13 shall not be construed to impose any duty or obligation on the authority to approve any prepayment, as the executive director shall have sole and absolute discretion to approve or disapprove any prepayment based upon his judgment as to whether such prepayment would be in the best interests of the authority and would promote the goals and purposes of its programs and policies.

DEPARTMENT OF LABOR AND INDUSTRY

REGISTRAR'S NOTICE: This regulation is being adopted in response to a federal regulatory mandate. The Department of Labor and Industry is requesting exclusion from the requirements of Article 2 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia.

Title of Regulation: VR 425-02-29. Hazardous Waste Operations and Emergency Response Standard - Virginia Occupational Safety and Health Standards for General Industry.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: June 10, 1987

Summary:

On December 19, 1986, Federal OSHA published (51 Fed. Reg. 45654) an Interim Final Rules (IFR) concerning Hazardous Waste Operations and Emergency Response, 29 CFR 1910.120. The IFR had staggered start-up dates with the last one being March 16, 1987.

The standard sets requirements for hazardous waste site analysis, training, medical surveillance, protective equipment, information programs, waste handling, decontamination procedures, and response to hazardous substance emergencies.

The IFR was issued in response to a provision in the Superfund Amendments and Reauthorization Act of 1986 (SARA) (P.L. 99-499), which directed the U.S. Secretary of Labor to issue an IFR, within 60 days after the date of enactment, which provides protection for workers engaged in covered operations equal to that afforded by EPA requirements and the requirements in OSHA's Subpart C of 29 CFR Part 1926 (Construction Standards). SARA also requires that OSHA issue a permanent standard by October 17, 1987, to become effective one year later. The IFR will be enforced at the federal level until the permanent standard becomes effective.

The IFR was issued without notice and comment procedures because of the Congressional provision in SARA which provided an extremely limited time frame for adoption (60 days) and because Federal OSHA concluded that neither the notice and comment provisions of OSHA Act nor those of the Federal Administrative Process Act are applicable to the IFR. The agency also found that "good cause" exists under 5 U.S.C. § 553(b)(B) for not providing notice and comment because under the circumstances those procedures would be impractical and contrary to the public interest.

Operations covered by the standard include those under the Comprehensive Environmental Response,

Compensation and Liability Act of 1980 as amended; clean-up under the Resource Conservation and Recovery Act of 1976 as amended; most operations involving hazardous waste storage, disposal, and treatment facilities; clean-up operations designated by state or local governments; and emergency response operations for "releases of or substantial threats of releases of hazardous substances, and post-emergency response operations for such releases."

The standard is estimated by OSHA to cover 25,255 superfund waste sites nationwide affecting 30,300 workers, 3,921 licensed sites with 137,000 workers, and approximately 18,000 spill sites involving from 4,000 to 40,000 state municipal workers.

An estimated 13,120 EPA-licensed hazardous waste haulers and their 50,000 workers are not covered by the interim rule because they are covered by Department of Transportation regulations.

Although state and municipal workers are not directly protected by the OSHA standards, those that work in 25 states and territories with OSHA-approved job safety and health plans will be covered within six months in order for those states to adhere to the program. EPA adoption of the OSHA standard will ensure protection to public employees in states other than the 25. (Occupational Safety and Health Reporter, BNA, 12/24/86).

Federal Regulation 29 CFR 1953.23(A)(2) requires Virginia to adopt within six months changes to federal standards in verbatim or to promulgate equivalent changes which are at least as effective as the federal change. The Virginia Code reiterates this requirement in § 40.1-22(5). Adopting this standard will allow Virginia to conform to the federal standard.

Since this standard was adopted without public comment in accordance with § 9-6.14:4.1.C.4(c) of the Code of Virginia, the Department of Labor and Industry will receive, consider and respond to petitions by any interested person at anytime with respect to reconsideration or revision.


Editor's Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Virginia Occupational Safety and Health Standards for General Industry, Hazardous Waste Operations and Emergency Response Standard is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the entire standard is not being printed in the Virginia Register of Regulations. Copies of the Hazardous Waste Operations and Emergency Response Standards are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

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VR 425-02-29. Hazardous Waste Operations and Emergency Response Standard - Virginia Occupational Safety and Health Standards for General Industry.

The Virginia Occupations Safety and Health Codes Board has adopted and issued amendments relating to Hazardous Waste Operations and Emergency Response Standards as codified in 28 CFR 1910.120 and published in the Federal Register, Vol. 51, No. 244, Page 45663, Friday, December 19, 1986. The amendments, as adopted, are not set out.



COMMONWEALTH of VIRGINIA
VIRGINIA CODE COMMISSION
General Assembly Building

POST OFFICE BOX 240
RICHMOND, VIRGINIA 23228
(804) 785-3591

April 22, 1987

Leslie A. Bowman, Jr., Vice Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
205 North Fourth Street
Richmond, Virginia 23241

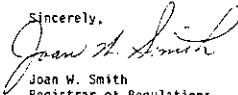
Attention: Margaret Gravett, Administrative Staff Specialist

Re: VR 425-02-29. - Hazardous Waste Operations and Emergency Response Standards

Dear Mr. Lukhard:

This will acknowledge receipt of the above-referenced regulation from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4.(c). of the Code of Virginia, I have determined that these Regulations are exempt from the operation of Article 2 of the Administrative Process Act since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:s11

MARINE RESOURCES COMMISSION

NOTE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purposes of promulgating regulations. However, they are required to publish the full text of final regulations.

Title of Regulation: VR 450-01-8703. Closing of James River 'Seed Area.'

Statutory Authority: §§ 28.1-82 and 28.1-85 of the Code of Virginia.

Effective Date: June 1, 1987

Preamble:

The following order of the Marine Resources Commission closes all public oyster grounds in the James River 'Seed Area' to the taking of oysters.

VR 450-01-8703. Closing of James River 'Seed Area.'

§ 1. Authority and effective date.

A. This Order is promulgated pursuant to authority contained §§ 28.1-82 and 28.1-85 of the Code of Virginia.

B. The effective date of this Order is June 1, 1987.

§ 2. Purpose.

The purpose of this Order is to close all public oyster grounds in the James River 'Seed Area' to the taking of oysters in order to protect and promote the oyster resource in that area.

§ 3. Closed area.

That area, known as the James River 'Seed Area', upstream of a line drawn from Cooper's Creek in Isle of Wight County on the southside of the James River to the Newport News municipal water tank located on Warwick Boulevard between 59th and 60th Streets in the City of Newport News, is hereby closed to the taking of oysters.

§ 4. Expiration date.

This Order shall terminate on October 1, 1987.

/s/ William A. Pruitt
Commissioner

* * * * *

Title of Regulation: VR 450-01-8704. Unloading Point for Relayed Shellfish.

Statutory Authority: § 28.1-179(8) of the Code of Virginia.

Effective Date: April 7, 1987

Preamble:

The following Order establishes a location where shellfish taken from condemned areas may be unloaded.

VR 450-01-8704. Unloading Point for Relayed Shellfish.

§ 3.1. Authority and effective date.

A. This Order is promulgated pursuant to authority contained in § 28.1-179(8) of the Code of Virginia.

The effective date of this Order is April 7, 1987.

§ 2. Designated area.

Shellfish taken from the Lynnhaven River shall be unloaded at the Lynnhaven Waterway Marina located at 1202 North Great Neck Road, Virginia Beach, Virginia.

§ 3. Expiration date.

This Order shall terminate April 30, 1987.

/s/ William A. Pruitt
Commissioner

Title of Regulation: VR 450-01-8705. Unloading Points for Condemned Shellfish.

Statutory Authority: § 28.1-179(11) of the Code of Virginia.

Effective Date: April 20, 1987

Preamble:

The following order establishes locations where condemned shellfish may be unloaded ashore.

VR 450-01-8705. Unloading Points for Condemned Shellfish.

§ 1. Authority and effective date.

This Order is promulgated pursuant to the emergency regulatory authority contained in § 28.1-179(11) of the Code of Virginia.

B. The effective date of this Order is April 20, 1987.

§ 2. Designated unloading points.

Shellfish taken from the condemned areas of the James River may be unloaded at the following points:

A. Tyler's Beach, Rushmere, Virginia.

B. Newport News City Dock, East Side of Deep Creek, Newport News, Virginia.

C. Rescue Seafood, Rescue, Virginia.

§ 3. Expiration date:

This Order shall terminate on May 20, 1987.

/s/ William A. Pruitt
Commissioner

Title of Regulation: VR 450-01-8706. Opening Season for Relay, Clam Beds of James River.

Statutory Authority: §§ 28.1-179(c) and 28.1-179(11) of the Code of Virginia.

Effective Date: April 21, 1987.

Preamble:

The following Order establishes April 22, 1987, as the opening date of the season for the relaying of clams from the condemned public grounds of the James River.

VR 450-01-8706. Opening Season for Relay, Clam Beds of James River.

§ 1. Authority and effective date.

A. This Order is promulgated pursuant to the emergency regulatory authority contained in § 28.1-179(c) and 28.1-179(11) of the Code of Virginia.

The effective date of this Order is April 21, 1987.

§ 2. Opening date.

The opening date of the season for the relaying of hard clams from the condemned public grounds of the James River shall be April 22, 1987.

§ 3. Expiration date.

This Order shall terminate on May 1, 1987.

/s/ William A. Pruitt
Commissioner

VIRGINIA REAL ESTATE BOARD

Title of Regulation: VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

Statutory Authority: §§ 54-1.28 and 54-740 of the Code of

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Virginia.

Effective Date: July 15, 1987

Summary:

The adopted revisions change some of the conditions for licensure, renewal, and registration; create some new record-keeping requirements for licensees; change some of the requirements for disclosure of information to the parties in a real estate transaction; extend the coverage of the regulations to include leasing transactions; and clarify and amend some of the grounds for disciplinary action by the board.

VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

SECTION 1

PART I GENERAL.

1.1 Necessity for license - It shall be unlawful for any person, partnership, association or corporation, to act as a real estate broker, real estate salesperson, or rental location agent or to advertise or assume to act as such real estate broker, real estate salesperson, or rental location agent without a license issued by the Virginia Real Estate Board. No partnership, association or corporation shall be granted a license, unless every member or officer of such partnership, association or corporation, who actively participates in its brokerage business, shall hold a license as a real estate broker, and unless every employee and every independent contractor who acts as a salesperson for such partnership, association or corporation shall hold a license as a real estate salesperson; provided, however, that a person who holds a license as a real estate broker may act as a salesperson for another real estate broker. [Virginia Code § 54-740 (1982 Repl. Vol.)]

1.2 § 1.1. Licenses Generally Definitions.

The following words and terms, when as used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Actively engaged" means employment by or association with a broker in performing those activities as defined in § 54-731 of the Code of Virginia for an average of at least twenty hours per week.

1.2.2 "Associate broker" shall mean means any individual licensee of the board holding a broker license other than a principal broker.

1.2.3 "Firm" shall mean means any partnership, association, or corporation, other than a sole proprietorship, which is required by regulations § 1.6 of

these regulations to obtain a separate broker brokerage firm license.

"Inactive status" refers to any broker or salesperson who is not associated with a firm or sole proprietor and who is not performing any of the activities defined in §§ 54-730 and 54-731 of the Code of Virginia.

1.2.1 "Principal broker" shall mean means the individual broker who shall be designated by each firm to assure compliance with Title 54, Chapter 18 of the Code of Virginia of 1960, as amended, and these regulations, and to receive communications and notices from the board which may affect the firm or any licensee employed by or associated with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for supervising the activities of the firm and all its licensees.

1.2.4 "Sole proprietor" shall mean means any individual broker, not a corporation, who is trading under the broker's own name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 to 76 through 59.1-76 of the Code of Virginia.

1.2.5 "Supervising broker" shall mean means the individual associate broker who shall be designated by the firm to supervise the activities of a branch office any one of its offices.

1.2 Licenses Generally - As used in these regulations, unless a different meaning is provided or is plainly required by the context:

1.2.1 "Principal broker" shall mean the individual broker who shall be designated by each firm to assure compliance with Title 54, Chapter 18 of the Code of Virginia of 1960, as amended, and these regulations, and to receive communications and notices from the Board which may affect the firm or any licensee employed by or associated with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for supervising the activities of the firm and all its licensees.

1.2.2 "Associate broker" shall mean any individual licensee of the Board holding a broker license other than a principal broker.

1.2.3 "Firm" shall mean any partnership, association, or corporation, other than a sole proprietorship, which is required by regulation 1.6 to obtain a separate broker license.

1.2.4 "Sole proprietor" shall mean any individual broker, not a corporation, who is trading under the broker's own name, or under an assumed or fictitious name pursuant to the provisions of Virginia Code §§ 59.1-69 to -76.

1.2.5 "Supervising broker" shall mean the individual broker who shall be designated by the firm to supervise the activities of a branch office.

[Authority: § 54-1.28(5)]

1.1 § 1.2. Necessity for license or registration.

It shall be unlawful for any person, partnership, association or corporation, to act as a real estate broker, real estate salesperson, or rental location agent or to advertise or assume to act as such real estate broker, real estate salesperson, or rental location agent without a salesperson or broker license or rental location agent registration issued by the Virginia Real Estate Board. No partnership, association or corporation shall be granted a license unless every member [or , director, and] officer of such partnership, association or corporation, who actively participates in its brokerage business shall hold a license as a real estate broker, and unless every employee and every independent contractor who acts as a salesperson for such partnership, association or corporation shall hold a license as a real estate salesperson; provided, however, that a person who holds a license as a real estate broker may act as a salesperson for another real estate broker. [Virginia Code § 54-740 1986 Supplement]

§ 1.3. License, and registration , and renewal fees.

The fee for each original real estate broker license shall be \$50.00, and the biennial renewal fee shall be \$50.00. The fee for each original real estate salesperson license and for each rental location agent license shall be \$30.00, and the biennial renewal fee shall be \$30.00. All application fees for licenses and registrations are nonrefundable.

A. Application fees for original licenses or registrations and biennial renewal fees are as follows:

1. Salesperson by education and examination \$30
2. Salesperson by reciprocity \$55
3. Renewal for salesperson \$30
4. Broker by education and examination \$50
5. Broker by reciprocity \$75
6. Broker [duplicate concurrent] license \$50
7. Renewal for broker \$50
8. Rental location agents \$30
9. Firm license \$50
10. Branch office license \$15

B. The application fee for original license for a

proprietary school shall be \$100 and the annual renewal fee shall be \$50.

§ 1.4. Expiration, and renewal , and reinstatement of license.

1.4.1 All licenses expiring on June 30, 1984, shall be renewed by firm in a manner to implement a staggered renewal system whereby an approximately equal number of licenses will be renewed each month over a two year cycle beginning in July, 1985. Licenses expiring on June 30, 1984, will be renewed for a one to three year period. Renewal notices mailed in the spring of 1984 will indicate the amount of fee due and the next expiration date. [Authority: § 54-1.28 (5)]

1.4.2 Fees will be determined for Class I licenses (firms, brokers and associate brokers) and for Class II licenses (salesmen) based upon the following schedules:

Expiration Date	Amount of Fee	
	Class I	Class II
July 31, 1985	\$27	\$16
August 31, 1985	29	17
September 30, 1985	31	18
October 31, 1985	33	20
November 30, 1985	35	21
December 31, 1985	37	22
January 31, 1986	39	23
February 28, 1986	41	25
March 31, 1986	43	26
April 30, 1986	45	27
May 31, 1986	47	28
June 30, 1986	49	30
July 31, 1986	51	31
August 31, 1986	53	32
September 30, 1986	55	33
October 31, 1986	57	35
November 30, 1986	59	36
December 31, 1986	61	37
January 31, 1987	63	38
February 28, 1987	65	40
March 31, 1987	67	41
April 30, 1987	69	42
May 31, 1987	71	43
June 30, 1987	73	45

[Authority: § 54-1.28(4)]

1.4.3 All licenses expiring on or after July 31, 1985 shall be renewed for a two year period. The amount of the renewal fee shall be \$50 for Class I categories and \$30 for Class II categories. All new licenses issued beginning on July 1, 1984, shall be issued in a manner to expire two years from the last day of the month in which they were issued. [Authority: § 54-1.28(4)]

1.4.4 A. Licenses issued under these regulations for salespersons, brokers, and firms shall expire two years

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from the last day of the month in which they were issued, as indicated on the license. The Commission will mail a renewal notice to the licensee at the licensee's last known home address outlining the procedures for renewal. Failure to receive this notice shall not relieve the licensee of the obligation to renew. Proprietary school licenses shall expire annually on June 30. Registrations shall expire every two years on June 30.

B. The board will mail a renewal notice to the licensee or registrant at the last known home address. The board will mail a firm renewal notice to the business address of the firm. These notices shall outline the procedures for renewal. The board will notify the firm 90 days after the expiration of the licenses of salespersons and brokers associated with the firm and again at 180 days. Failure to receive these notices shall not relieve the licensee or the registrant of the obligation to renew.

1.4.5 C. Prior to the expiration date shown on the license or registration, each licensee or registrant desiring to renew their license his license or registration shall return to the board the renewal application notice and the appropriate fee as outlined in § 1.3 of these regulations. Should the licensee or registrant fail to receive the renewal notice, a copy of the license or registration may be submitted with the required fee.

1.4.5.1 For firms and brokers, \$50.00;

1.4.5.2 For salespersons \$30.00.

1.4.5.3 Should the licensee fail to receive the renewal notice, a copy of the license may be submitted with the required fee. [Authority: § 54-1.28(4), (5)]

1.4.6 D. If the renewal fee is not received by the board within 30 days of the expiration date noted on the license or registration, a penalty fee shall be required, in addition to the renewal fee, as follows:

1.4.6.1 1. For firms and brokers, \$50;

1.4.6.2 2. For salesperson salespersons and rental location agents, \$30.

1.4.6.3 E. Any licensee failing to renew his license within 180 days of the expiration date noted on the license must reapply as a new applicant for a license may renew during the next 180 days by paying a penalty fee, in addition to the renewal fee, as follows:

1. For firms and brokers, \$150;

2. For salespersons, \$90.

F. After 12 months, renewal is not possible under any circumstances and the applicant must meet all current educational and examination requirements and apply as a new applicant.

1.4.7 G. Any licensee who has not been issued a license actively licensed with a broker under the provisions of regulation 3-1-6.2 § 3.1, F,2 of these regulations for a period of greater than three years shall be required to meet the educational requirements for a salesperson or broker in effect at the time written request for issuance of such license is filed with the board.

§ 1.5. Individual license.

A real estate broker license shall not be issued to an individual trading under an assumed or fictitious name, that is, a name other than the individual's full name, until the individual signs and acknowledges a certificate provided by the board, setting forth the name under which the business is to be organized and conducted, the address of the individual's residence, and the address of the individual's place of business. Each certificate must be attested by the Clerk of Court of the county or jurisdiction wherein the business is to be conducted. The attention of all applicants and licensees is directed to §§ 59.1-69 through 59.1-76 of the Code of Virginia.

§ 1.6. Partnership, association, or corporation.

Every partnership, association, or corporation must secure a separate real estate broker license for its brokerage firm before transacting real estate business as a real estate broker. Application for such license shall disclose, and the license shall be issued to, the name under which the applicant intends to do or does business and holds itself out of the public. This license is separate and distinct from the individual broker license required of each partner, associate, and officer or director of a corporation who is active in the brokerage business.

1.6.1 A. Partnership. Each partnership acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the partnership; the name and style of the firm; the address of the Virginia office of the firm; the length of time for which it is to continue; and the percentage or part of the partnership owned by each partner. Every change in the partnership must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

1.6.2 B. Association. Each association acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the association; the name and style of the firm; the length of time for which it is to continue; and the percentage or part of the association owned by each associate. Every change in the association must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

1-6.3 C. Corporation. Each corporation acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each officer of the corporation; the name and style of the corporation; the corporation's place of business; and the names and addresses of the members of the Board of Directors.

1-6.3.1 1. Every change of officers must be evidenced by filing a new certificate with the board within 60 30 days after the change is effective.

1-6.3.2 2. The board will not consider the application of any corporation or its officers, directors, employees, or associates until the corporation is authorized to do business in Virginia.

§ 1.7. [Duplicate Concurrent] licenses. No [duplicate Concurrent] licenses shall be issued by the board, except in the case of a broker to brokers active in designated as a principal broker by more than one separate legal entity upon receipt of a [duplicate concurrent] license form and written affidavits stating that written notice of the applicant's [duplicate concurrent] licensure status has been provided to the principal broker of each firm with which the applicant has been associated. Payment will be required for each license. [Dual licensing or the issuance of more than one license number shall not be permitted.]

§ 1.8. The board shall have the authority to appoint such committees as necessary to advise it in carrying out its responsibilities.

SECTION 2

PART II. ENTRY.

§ 2.1. Qualifications for licensure. Every applicant to the Virginia Real Estate Board for a license shall have the following qualifications:

2-1.1 1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and competence be competent to transact the business of a real estate broker or a real estate salesperson in such a manner as to safeguard the interests of the public.

2-1.2 2. The applicant shall meet the current educational requirements of § 54-740 of the Code of Virginia prior to the time the applicant sits for the licensing examination or applies for licensure. See § 4.8 of these regulations for educational requirements for salespersons.

2-1.3 The applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended in any other jurisdiction within one year prior to application, or one which was revoked in Virginia or in any other jurisdiction within five years

prior to application.

3. The applicant shall be in good standing as a licensed real estate broker or salesperson in every other jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended or revoked or which has been the subject of discipline in any other jurisdiction within five years prior to applying for licensure in Virginia.

2-1.4 4. The applicant shall not have been convicted within the past five years in a court of competent any jurisdiction of this or any other state, or of the District of Columbia, or of the United States, of forgery, embezzlement, larceny, obtaining money under false pretenses, extortion, conspiracy to defraud, bribery, burglary, robbery, a felony involving personal injury to a victim, or other like offense(s), or have pleaded guilty or nolo contendere to any such offense(s), or been found to have violated the Virginia Fair Housing Act, there being no appeal pending therefrom or the time for appeal having elapsed a misdemeanor involving moral turpitude or of any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

2-1.5 5. The applicant shall be at least 18 years old.

2-1.6 6. The applicant shall pass a written examination Within the twelve months prior to making application for a license, the applicant shall have passed a written examination provided by the board or by a testing service selected by the board.

7. Actively engaged salespersons and associate brokers must be supervised by a principal broker or designated supervising broker.

§ 2.2. Additional qualifications for brokers.

An applicant for a license as a real estate broker shall meet the following requirements in addition to those set forth in regulation § 2.1 of these regulations: provided, however, that any person who has previously held an unrevoked Virginia real estate broker license may be issued a real estate broker license by completing the educational requirements of Virginia Code Section 54-740(b) and passing an examination, without first having to meet the experience requirement of regulation 2-2.2.:

A. New broker applicants.

2-2.1 1. The applicant shall meet the current educational requirements of Section § 54-740(b) of the

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Code of Virginia.

2.2.2 2. The applicant shall have been actively engaged as defined in § 1.1 of these regulations as a real estate salesperson for a period of 36 of the [40 48] months immediately preceding application. "Actively engaged" shall be deemed to mean employment by or association with a broker in performing those activities defined in Virginia Code § 54-731 for an average of at least twenty hours per week.

2.2.3 The applicant shall not be currently licensed as a real estate broker by the Virginia Real Estate Board.

B. Previous brokers. Any person who has previously held an unrevoked Virginia real estate broker license may be issued a broker license without first having to meet the experience requirements of § 2.2, subsection A, paragraph 2 of these regulations by:

1. Completing the current educational requirements of § 54-740(b) of the Code of Virginia; and
2. Passing a written examination provided by the board or by a testing service selected by the board.

§ 2.3. Licensees of Other Jurisdictions. Qualifications for licensure by reciprocity.

Every applicant to the Virginia Real Estate Board for a license by reciprocity shall have the following qualifications, except that § 2.3.A.5 below shall only be applicable for salesperson applicants:

2.3.1 A. Salesperson An individual who is currently licensed as a real estate salesperson or broker in another jurisdiction may obtain a Virginia real estate salesperson license without taking a the Virginia written licensing examination by meeting the following requirements:

2.3.1.1 Submit an application fee of \$55.00 payable to the "Treasurer of Virginia." [Authority: § 54-1.28(4)]

2.3.1.2 1. Be at least 18 years of age.

2.3.1.3 2. Have received the salesperson or broker license by virtue of having passed in the jurisdiction of original licensure a written examination in the jurisdiction of original licensure deemed to be substantially equivalent to the Virginia examination.

2.3.1.4 3. Sign, as part of the application, an affidavit certifying Submit a certified statement that the applicant has read and understands the Virginia real estate license law and the regulations of the Virginia Real Estate Board.

4. Be in good standing as a licensed real estate broker or salesperson in every other jurisdiction

where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended or revoked or which has been the subject of discipline in any other jurisdiction within five years prior to applying for licensure in Virginia.

5. At the time of application for a salesperson's license, must have been actively engaged in real estate for 12 of the preceding 36 months or have met educational requirements that are substantially equivalent to those required in Virginia.

6. Have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate salesperson or broker in such a manner as to safeguard the interests of the public.

7. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

2.3.2. B. Brokers Additional qualifications for reciprocal licensure as a broker. An individual who is currently licensed as a real estate broker in another jurisdiction may obtain a Virginia real estate broker license without taking a written examination by meeting the following requirements in addition to those set forth in § 2.3, subsection A, paragraphs 1-4, 6, and 7:

2.3.2.1 Submit an application fee of \$75.00 payable to the "Treasurer of Virginia." [Authority: § 54-1.28(4)]

2.3.2.2 Be at least 18 years of age.

2.3.2.3 Have received the broker license by virtue of having passed a written examination in the jurisdiction of original licensure.

2.3.2.4 1. Have been licensed as a real estate broker and actively engaged as a real estate broker or salesperson in the current jurisdiction of licensure for at least 36 of the [40 48] months immediately prior to making application in Virginia. (See regulation 2.2.2 § 1.1 of these regulations for the definition of "actively engaged.")

2. Have met educational requirements that are substantially equivalent to those required in Virginia.

2.3.2.5 Submit a certified statement that the applicant has read and understands the Virginia real estate license law and the regulations of the Virginia Real Estate Board.

§ 2.4. Rental location agent.

An applicant for licensure registration as a rental location agent need not be employed by or associated with a real estate broker, but shall apply in writing upon forms provided by the board, and shall meet all the following requirements: of regulation 2.1, except the applicant need not be employed by or associated with a real estate broker.

2.4.1 The application fee for each original rental location agent license shall be \$30.00, and the biennial renewal fee shall be \$30.00. [Authority: § 54-1-28(4)]

2.4.2 A licensed real estate salesman or broker may surrender that license to the Commission and be licensed as a rental location agent after submitting the proper forms provided by the Commission.

2.4.3 A licensed rental location agent may at any time exchange that license for a real estate salesman license, upon the written request of the applicant's principal broker and submission of the proper forms provided by the Commission.

2.4.4 A licensed rental location agent who previously surrendered his license as a real estate broker in exchange for licensure as a rental location agent may at any time exchange that license for a real estate broker license, upon the written request of the applicant's principal broker or the submission of proof of the applicant's designation as a firm's principal broker, and upon submission of the proper forms provided by the Commission.

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a rental location agent.

2. The applicant shall be at least 18 years old.

2.4.5 3. A person shall not be concurrently licensed as a real estate salesperson or broker and registered as a rental location agent. nor shall any A rental location agent shall not be concurrently licensed registered with more than one rental location agency.

4. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

§ 2.5. Rental location agency.

A. Each business operating as a rental location agency, whether in the form of a sole proprietorship, association, partnership, or corporation, shall obtain from the board a firm license as a rental location agency, separate and distinct from that of its agents.

2.5.1 The application fee for each rental location agency license shall be \$50.00, and the biennial renewal fee shall be \$50.00.

2.5.2 Application for such license shall be in writing upon forms provided by the Commission, and shall disclose the name of the business and the name, business address, and residential address of each owner, associate, partner, officer and director of the business, as the case may be. Every change in the agency must be evidenced by filing a new certificate with the Commission within 10 days after the change is effective.

2.5.3 B. Every rental location agency shall be supervised by a supervising rental location agent designated by the agency and registered with the board. The supervising rental location agent shall have responsibility for supervising the activities of the agency and all its licenses registrants .

2.5.4 C. Each rental location agent license registration shall be issued only to the agency where the agent is associated or employed. The supervising rental location agent shall keep such licenses registrations in his custody and control for the duration of the agent's employment or association with that agency.

2.5.5 D. When any rental location agent is discharged or in any way terminates his employment or association with an agency, it shall be the duty of the supervising rental location agent to notify the board of the termination by returning the license registration by certified mail to the board within 10 calendar days. The supervising rental location agent shall indicate on the license registration the date of termination, and shall sign the license registration before returning it.

SECTION 3

PART III. STANDARDS OF CONDUCT.

§ 3.1. Place of business.

3.1.1 A. Within the meaning and intent of § 54-733 of the Code of Virginia, a place of business shall be an office where:

3.1.1.1 I. The principal broker, either through his own efforts or through the efforts of his employees or associates, regularly transacts the business of a real estate broker as defined in § 54-730 of the Code of Virginia; and

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3-1-1.2 2. The principal broker and his employees or associates can receive business calls and direct business calls to be made.

3-1-2 B. No place of business shall be in a residence unless it is separate and distinct from the living quarters of the residence and is accessible by the public.

3-1-3 C. No license shall be issued until the Virginia Real Estate Commission, or an authorized representative of the Commission, has determined that such place of business meets the foregoing standards. The Virginia Real Estate Board or its authorized representative may inspect a place of business to ensure compliance with § 3.1, subsection A, and § 3.1, subsection B, of these regulations.

3-1-4 D. Every individual, partnership, association, or corporation acting as a real estate broker shall display at all times, in a conspicuous place on the outside of each place of business maintained in this state the Commonwealth for the purpose of transacting business as a real estate broker, a sign stating the name of such individual, partnership, association, or corporation, as set forth in the license issued by the board, and containing the words "real estate broker," "real estate agent," or another word designating a member of a generally recognized association or organization of real estate brokers, whichever is applicable. This regulation shall not apply to any place of business maintained in any locality which has a local ordinance prohibiting signs.

3-1-5 E. Display of license. Every principal broker shall display in a conspicuous and public place in the firm's main place of business his license and the license of every salesperson and broker associated with or employed by the firm. The licenses shall be displayed together, and not individually, in such a manner that the public can readily determine the names of the licensees.

3-1-6 F. Maintenance of licenses:

3-1-6.1 1. Salespersons and individual brokers shall at all times keep the board informed of their current home address. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board of any change of address.

3-1-6.2 2. Salespersons and brokers shall only be issued a license to the place of business of the sole proprietorship or firm where the salesperson or broker is associated or employed. The license shall be issued after the sole proprietor or principal broker files a written request on a form supplied by the board. Salespersons and brokers not associated with a sole partnership or firm shall receive written acknowledgement of payment from the board at the time they renew their license, but no license shall be issued except to a sole proprietorship or firm.

3-1-6.3 3. Salespersons and brokers not associated with a sole proprietorship or firm that is, those inactive, shall receive written acknowledgement of payment from the board at the time they renew their license, but no license shall be issued except to as they are not associated with a sole proprietorship or firm.

3-1-6.3 4. When any salesperson or broker is discharged or in any way terminates his employment or association with a sole proprietorship or firm, it shall be the duty of the sole proprietor or principal broker to notify the board and the licensee of the termination by and to returning return the license by certified mail to the board so that it is received within 10 calendar days of the date of termination. The sole proprietor or principal broker shall indicate on the license the date of termination, and shall sign the license before returning it.

3-1-7 G. Each place of business and each branch office shall be supervised and personally managed by an on-premises real estate broker who shall supervise only that office and shall be at the office or within easy access during regular business hours.

3-1-8 Death of a broker - Upon the death or disablement of a licensed real estate broker who was engaged in a sole proprietorship or who was the only licensed broker in a corporation, the executor or administrator of his estate or any adult member of his family shall have the right, subject to approval by the Virginia Real Estate Board, to carry on the business of the deceased or disabled broker for 180 days following the death or disablement of the broker. [Authority: § 54-1-28(5)]

3-1-9 Individuals carrying on the business of a deceased or disabled broker pursuant to the provisions of regulation 3-1-8 shall do so subject to the supervision of the Board. [Authority: §§ 54-1-28(5), 54-740]

§ 3.2. Branch office license.

If a real estate broker maintains more than one place of business within the state Commonwealth, a branch office license shall be issued for each branch office maintained. Application for the license shall be made on forms provided by the board and shall reveal the name of the firm, the location of the branch office, and the name of the supervising broker for that branch office. Only the branch office license shall be maintained at the branch office location.

§ 3.3. Change of business locations.

Notice in writing, accompanied by all the current licenses shall be given to the board in the event of any change of business name or location. Such notice shall be received by the board within 10 days of the change of name or location, whereupon the board shall reissue the licenses for the unexpired period.

§ 3.4. Records and deposits of funds.

A complete record of transactions conducted under authority of the principal broker's Virginia license or the rental location agent's license registration shall be maintained in the principal broker's place of business in Virginia, or in a designated branch office, or in the office of the rental location agency. When the principal broker's office or the main office of the rental location agency is located outside of Virginia and the firm has a branch office in Virginia, these records shall be maintained in the Virginia office. These records shall show, in addition to any other requirements of the regulations, the following information: from whom money was received; the date of receipt; the place of deposit; the date of deposit; and, after the transaction has been completed, the final disposition of the funds.

3.4.1 A. Each principal or supervising broker firm or sole proprietorship shall maintain in the name by which the firm it is licensed one or more separate escrow or trust accounts in a federally insured depository in Virginia into which all down payments, earnest money deposits, money received upon final settlement, rental payments, rental security deposits, money advanced by a buyer or seller for the payment of expenses in connection with the closing of real estate transactions, money advanced by the broker's principal or expended on behalf of the principal, or other escrow funds received by him or his associates on behalf of his principal or any other person shall be deposited unless all parties to the transaction have agreed otherwise in writing. The principal broker or supervising broker may be held responsible for these accounts.

3.4.2 B. Unless otherwise agreed in writing by all parties to the transaction, expenses incidental to closing a transaction, e.g., fees for appraisal, insurance, credit report, etc., shall not be deducted from a deposit or down payment.

3.4.3 C. A principal or supervising broker licensee shall not disburse or cause to be disbursed monies from a property management account money for repairs, mortgage payment, insurance payment, etc., unless sufficient money is on deposit in that account to the credit of the individual client or property involved.

3.4.4 D. The principal or supervising broker shall maintain a bookkeeping system which shall accurately and clearly disclose full compliance with the requirements outlined in § of Regulation 3.4 of these regulations.

3.4.5 E. Upon acceptance of a contract, earnest money deposits and down payments received by the principal or supervising broker or his associates shall remain intact be placed in the an escrow account and shall remain in that account until the transaction has been consummated or terminated. In the event the transaction is not consummated, the principal or supervising broker shall keep these hold such funds intact in escrow until (i) all parties to the transaction have agreed in writing as to

their disposition, or (ii) until a court of competent jurisdiction orders such disbursement of the funds, or (iii) the broker can pay the funds to the party who is entitled to receive them in accordance with the clear and explicit terms of the contract which established the deposit. In the latter event, prior to disbursement, the broker shall give written notice to each party not to be paid, by either (i) hand delivery receipted for by the addressee, or (ii) by regular and certified mail, that this payment will be made unless a written protest from that party is received by the broker within 30 days of the delivery or mailing, as appropriate, of that notice. A broker who has carried out the above procedure shall be construed to have fulfilled the requirements of this regulation.

3.4.6 F. Unless otherwise agreed in writing by all parties to the transaction, a licensee shall not be entitled to any part of the earnest money deposit or to any other money paid to the licensee in connection with any real estate transaction as part of the licensee's commission until the transaction has been consummated.

3.4.7 G. Funds to be deposited in the escrow account will necessarily include monies which shall ultimately belong to the licensee, but such monies shall be separately identified in the escrow account records and shall be paid to the firm by a check drawn on the escrow account when the funds become due to the licensee. The fact that an escrow account contains money which may ultimately belong to the licensee does not constitute "commingling of funds" as set forth by regulation 3.5.22, § 3.5, paragraph 27, of these regulations, provided that there are periodic withdrawals of said funds at intervals of not more than 12 [at least 6 not more than six] months, and that the licensee can at all times accurately identify the total funds in that account which belong to him the licensee and the firm.

3.4.8 H. On funds placed in an account bearing interest, [written] disclosure shall be made [in writing to the principals involved in the transaction] regarding the disposition disbursement of the interest.

3.4.9 I. If escrow funds are used to purchase a certificate of deposit, the pledging or hypothecation of such certificate, or the absence of the original certificate from the direct control of the principal or supervising broker, shall constitute commingling as prohibited by 3.5.23 § 3.5, paragraph 27, of these regulations.

J. Licensees shall maintain accounting records which are in sufficient detail to provide necessary information to determine compliance with § 3.4 of these regulations.

§ 3.5. Grounds for disciplinary action.

The board has the power to fine any licensee or registrant, or to suspend, revoke, or deny renewal of any license or registration issued under the provisions of Title 54, Chapter 18 of the Code of Virginia and the regulations of the board, at any time after a hearing conducted

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pursuant to the provisions of the Administrative Process Act, Title 54 9 , Chapter 1.1:1 of the Code of Virginia and the Agency Rules of Practice, where the licensee has been found to be guilty of:

~~3-5-1~~ 1. Obtaining a license by false or fraudulent representation;

~~3-5-2~~ 2. Paying a commission or other valuable consideration to any person for acts or services performed in violation of Title 54, Chapter 18 of the Code of Virginia or these regulations; provided, however, that referral fees and shared commissions may be paid to any real estate firm licensed in this or another jurisdiction, or to any referral firm in the United States, the members of which are brokers licensed in this or another jurisdiction and which only disburses commissions or referral fees to its licensed member brokers;

~~3-5-3~~ 3. *Notwithstanding the provisions of § 54-731.1 of the Code of Virginia*, accepting a commission or other valuable consideration, as a real estate salesperson or associate broker, for the performance of any of the acts specified in Title 54, Chapter 18 of the Code of Virginia or the regulations of the board, from any person except the licensee's principal broker at the time of the transaction;

~~3-5-4~~ 4. Violating or cooperating with others in violating any provision of Title 54, Chapter 18 of the Code of Virginia or any regulation of the board;

~~3-5-5~~ 5. Representing or attempting to represent as a salesperson or associate broker a real estate broker other than the licensee's principal broker, without the written consent of the principal broker;

~~3-5-6~~ 6. Acting for more than one party in a transaction without the ~~knowledge~~ *written consent* of all parties for whom the licensee acts;

~~7.~~ *Acting as an agent for any principal in a real estate transaction outside the licensee's brokerage firm(s) or sole proprietorship(s);*

~~3-5-7~~ 8. Making an exclusive agency contract or an exclusive right-to-sell contract which does not have a definite termination date;

~~3-5-8~~ 9. Making a listing contract or lease which provides for a "net" return to the seller *lessor* , leaving the licensee free to sell or lease the property at any price he can obtain in excess of the "net" price named by the seller *lessor* ;

~~3-5-9~~ 10. Failing to give the parties involved ~~true~~, *make prompt delivery to each party to a document, complete and legible copies of any written or printed listing listings, obtained contracts, residential leases, or other agreements being negotiated by a salesperson or*

broker at the time such ~~listing listings, is contracts, residential leases, or other agreements signed by the parties are secured;~~

~~3-5-10~~ 11. Offering real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

~~3-5-11~~ 12. Placing a sign on any property without the consent of the owner of the property;

~~3-5-12~~ 13. Causing any advertisement for sale, rent, or lease to appear in any newspaper, periodical, or sign without including in the advertisement the ~~firm's name~~ *name of the firm or sole proprietorship* ;

~~3-5-13~~ 14. Using "bait and switch" tactics by advertising or offering real property for sale or rent with the intent not to sell or rent at the price or terms advertised, unless the advertisement or offer clearly states that the property advertised is limited in specific quantity and the licensee or registrant did in fact have at least that quantity for sale or rent;

~~3-5-14~~ 15. Failing to disclose *in a timely manner* to a prospective purchaser *lessee*, or seller *lessor*, any *material information related to the property readily reasonably* available to the licensee or registrant; ~~concerning the real estate's character, condition, location, acreage, boundaries, loan charges, loan discount, highway location or relocation, zoning restrictions, proposed zoning changes, the existence and availability of public utilities and sewer connections, taxes, and approximate closing costs;~~

~~3-5-15~~ 16. Failing as a licensee to promptly tender to the seller every written offer to purchase obtained on the property involved;

~~3-5-15-1~~ 17. Failing to make prompt delivery of ~~true~~ *fully* executed copies of the contract or lease, signed by the seller *lessor* and purchaser *lessee* , to both purchaser *lessee* and seller *lessor* after obtaining a proper acceptance of the offer to purchase or rent ;

~~18.~~ *Failing to provide in a timely manner to all parties to the transaction written notice of any material changes to the transaction;*

~~3-5-15-2~~ 19. Failing to ~~make certain that all of~~ *include* the *complete* terms and conditions of the real estate transaction ~~are included~~ in such offer to purchase or rent, *including identification of all those holding any deposits* ;

~~3-5-16~~ 20. ~~Handling of closings~~ *Acting in the capacity of a settlement agent in a real estate closing by a salesperson, except:*

3.5-16 a. When the salesperson is under the direct supervision of ~~his~~ the principal /supervising broker; or

3.5-16 b. When the salesperson is under the direct supervision of a licensed officer of the corporation or a licensed partner of the partnership under which the salesperson is licensed; or

3.5-16 c. When *the settlement agent is a member of the Virginia State Bar or a law firm, the members of which are members of the Virginia State Bar [; and is present at the closing; .]*

d. When the settlement agent is a title insurance company or an agency thereof of a firm regularly engaged in the business of closing real estate transactions;

3.5-17 21. Failing to deliver to the seller and buyer, at the time a real estate transaction is completed, a complete and accurate statement of receipts and disbursements of monies received by ~~him~~ the licensee, duly signed and certified by the principal or supervising broker or his authorized agent; *provided, however, if the transaction is closed by a settlement agent other than the licensee or his broker, and if the disbursement of monies received by the licensee is disclosed on the applicable settlement statement, the licensee shall not be required to provide the separate statement of receipts and disbursements but shall be responsible for the delivery of the settlement statement;*

3.5-18 22. Refusing or failing without just cause to surrender to the rightful owner, upon demand, any document or instrument which the licensee possesses;

3.5-19 23. Failing, as a principal or supervising broker, to retain on file true copies of all statements licenses are required to deliver to the seller and buyer pursuant to subsection (17) of this regulation for a period of three years from the date of the closing *a complete and legible copy of each contract, agreement, notice and closing statement related to a real estate transaction, and all other documents material to that transaction ;*

3.5-20 24. Having received monies on behalf of others and failed to maintain a complete and accurate record of such receipts and their disbursements for a period of three years from the date of the closing;

3.5-21 25. Failing, within a reasonable time, to account for or to remit any monies coming into a licensee's possession which belong to others;

3.5-22 26. Accepting any note, nonnegotiable instrument, or anything of value not readily negotiable, as a deposit on a contract or offer to purchase, or lease, without acknowledging its acceptance in the

contract agreement ;

3.5-23 27. Commingling the funds of any person by a principal or supervising broker or his employees or associates with his own funds, or those of his corporation, firm, or association; or failure to deposit such funds in an account or accounts designated to receive only such funds as required by regulation § 3.4 ~~1~~ subsection A of these regulations ;

3.5-24 28. Offering or paying any money or other valuable consideration to any party other than a principal to a transaction which resulted in a fee paid to the licensee;

3.5-25 29. ~~Accepting, receiving, or~~ Charging money or other valuable consideration to or accepting or receiving money or other valuable consideration from any person or entity other than the licensee's principal for expenditures made on behalf of that principal without the written consent of the principal ;

30. Receiving, as a real estate firm or sole proprietorship, and monies or other valuable consideration from any party other than a principal to the transaction, a licensed real estate firm, sole proprietorship, or referral firm (see § 3.5, subsection (b) of these regulations;

3.5-26 31. Knowingly making any false statement or report, or willfully misstating the value of any land, property, or security for the purpose of influencing in any way the action of any lending institution lender upon:

3.5-26.1 a. Applications, advance discounts, purchase agreements, repurchase agreements, commitments or loans;

3.5-26.2 b. Changes in terms or extensions of time for any of the items listed in regulation 3.5-26.1, § 3.5, paragraph 31a, whether by renewal, deferment of action, or other means;

3.5-26.3 c. Acceptance, release, or substitution of security for any of the items listed in regulation 3.5-26.1 § 3.5, paragraph 31a.

3.5-27 32. Making any misrepresentation;

3.5-28 33. Making a false promise through agents, salespersons, advertising, or other means;

3.5-29 34. Holding more than one license as a real estate broker or salesperson in Virginia *except as provided in § 1.7 of these regulations ;*

3.5-30 35. As a currently licensed real estate salesperson, sitting for the licensing examination for a salesperson's license;

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~~3-5-31~~ 36. As a currently licensed real estate broker, sitting for a real estate licensing examination;

~~3-5-32~~ 37. Refusing or failing, upon request or demand, to produce to the board or any of its agents any document, book, record, or copy thereof in a licensee's possession concerning any real estate transaction in which the licensee was involved as a broker or salesperson, or for which the licensee is required to maintain records for inspection and copying by the board or its agents;

~~3-5-33~~ 38. Having been convicted within the past five years in a court of competent or found guilty regardless of adjudication in any jurisdiction of this or any other state, or of the District of Columbia, or of the United States of forgery, embezzlement, larceny, obtaining money under false pretenses, extortion, conspiracy to defraud, bribery, burglary, robbery, a felony involving personal injury to a victim, or other like offense(s), or pleading guilty or of any felony or a misdemeanor involving moral turpitude there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere to any such offense(s), or having been found to have violated the Virginia Fair Housing Act, as provided in Virginia Code § 36-05.2, there being no appeal pending therefrom or the time for appeal having elapsed; shall be considered a conviction for the purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt;

~~3-5-34~~ 39. Engaging in any practice constituting a violation Having been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act, the fair housing laws of any jurisdiction of the United States, including without limitation Title VIII of the Civil Rights Act of 1968, or the Civil Rights Act of 1866, there being no appeal therefrom or the time for appeal having elapsed ;

~~3-5-35~~ 40. Being unworthy or incompetent to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public, or otherwise engaging in improper, fraudulent, or dishonest conduct;

~~3-5-36~~ 41. Accepting or agreeing to accept any fee as a rental location agent without giving the person paying or agreeing to pay such fee a contract or receipt in which the agent sets forth a definite termination date for the services to be provided. The termination date shall not be later than one year from the date of the original agreement or acceptance of a fee. The rental location agent shall agree in the contract or receipt to repay, upon request, within 10 days of the expiration date, any amount of fee collected over and above the sum of \$10 service

charge if no rental is obtained. The rental location agent shall further agree in the contract or receipt that if rental information provided by the agent is not current or accurate, the full fee shall be repaid upon request within 10 days of the delivery of the inaccurate rental information;

~~3-5-37~~ 42. Referring, as a rental location agent, a prospective tenant to any property for which the agent has not verified the availability of the property within seven working days prior to the referral;

~~3-5-38~~ 43. Failing, as a rental location agent, to maintain a written registry of all lists of rentals provided to customers and of all advertisements published or caused to be published by the agent, together with the address of the property listed or advertised, the date of verification of the availability, and the name, address, and telephone number, if any, of the party who offered the property for rent. This registry shall be kept for a period of three years from the date of the lists or the publication of any advertisement listed in it;

44. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude.

§ 3.6. Advertising by licensees.

The name under which the broker does business and the manner in which the broker advertises shall not imply that the property listed or marketed by the broker for others is "for sale by owner." A broker shall not advertise in any newspaper, periodical, or sign to sell, buy, exchange, rent, or lease property in a manner indicating that the offer to sell, buy, exchange, rent, or lease such property is being made by a person not licensed as a real estate broker. No advertisement shall be inserted in any publication where only a post office box number, telephone number, or street address appears. Every broker, when advertising real estate in any newspaper or periodical, shall affirmatively and unmistakably indicate that the party advertising is a real estate broker.

~~3-6-1~~ A. Every salesperson or associate broker is prohibited from advertising *and marketing* under the licensee's own name in any manner offering on behalf of others to buy, sell, exchange, rent, or lease any real property. All advertising *and marketing* must be under the direct supervision of the principal broker or supervising broker and in the name of the firm. *The name of the firm which must be predominantly displayed on all display signs and other types of advertising and marketing and must be printed in a size equal to or greater than the size of the name of the salesperson or broker .*

~~3-6-2~~ B. Notwithstanding the above restrictions, where a salesperson or associate broker is the owner of or has any ownership interest in the property being advertised, the

licensee shall advertise with the notice that the owner is a real estate licensee, but such advertisement must not indicate or imply that the licensee is operating a real estate brokerage business.

§ 3.7. Service marks and institutional advertising.

As used in regulation § 3.7, unless a different meaning is plainly required by the context:

3.7.1 "Licensee" shall mean a sole proprietorship, partnership, corporation, association, or any other form of business entity licensed by the Commission as a real estate broker;

3.7.2 "Registered name" shall mean the name in which the licensee's license to act as a real estate broker has been issued;

3.7.3 "Service mark" shall mean the trade name, service mark, or logo, whether or not registered under any federal or state law, which is owned by an entity other than the licensee and which the licensee has obtained permission to use through agreement, license, franchise, or otherwise;

3.7.4 "Advertising" shall mean means any communication, whether oral or written, between a licensee or an entity acting on behalf of one or more licensees and any other natural person or business entity. It shall include, but is not limited to, telephonic communications, insignias, business cards, telephone directory listings, listing agreements, contracts of sale, billboards, signs, letterheads, as well as radio, television, magazine, and newspaper advertisements; and

3.7.5 "Institutional advertising" shall mean means advertising in which neither the registered name nor any other identification of any licensee licensed individual is disclosed, no real property is identified, and a service mark is identified.

3.7.1 "Licensee" shall mean means a sole proprietorship, partnership, corporation, association, or any other form of business entity licensed by the board as a real estate broker;

3.7.2 "Registered name" shall mean means the name in which the licensee's license to act as a real estate broker has been issued;

3.7.3 "Service mark" shall mean means the trade name, service mark, or logo, whether or not registered under any federal or state law, which is owned by an entity other than the licensee and which the licensee has obtained permission to use through agreement, license, franchise, or otherwise;

3.7.5.1 1. All institutional advertising shall state that the service being advertised is real estate brokerage, and shall state affirmatively that each licensee

licensed brokerage firm or sole proprietorship displaying or using the service mark is an independently owned and operated business.

3.7.5.2 2. Any service mark constituting a part of written noninstitutional advertising shall conspicuously disclose that the licensee licensed brokerage firm or sole proprietorship is independently owned and operated. Disclosure that the licensee licensed brokerage firm or sole proprietorship is independently owned and operated shall not be required in the following categories of written noninstitutional advertising:

3.7.5.2.1 a. "For sale" and "for lease" signs located on the premises of specific property for sale or lease.

3.7.5.2.2 b. Advertising by a licensee licensed brokerage firm or sole proprietorship in newspapers, magazines, or other publications of a single specific property for sale or lease when the advertisement occupies no more than 28 of the standard classified advertising lines of the newspaper, magazine, or other publication in which the advertisement is published.

3.7.5.2.3 c. Telephone directory listings; however, disclosure that the licensee licensed brokerage firm or sole proprietorship is independently owned and operated is required in "display" advertisements and "in column informational" or "business card" advertisements, or their equivalent, appearing in telephone directories.

3.7.5.3 3. In oral noninstitutional advertising, the speaker shall disclose affirmatively the licensee's registered name, and except in the case of telephone communication, shall disclose that the licensee licensed brokerage firm or sole proprietorship is independently owned and operated.

§ 3.8. Disclosure of interest.

A licensee of the Virginia Real Estate Board shall not acquire any interest in real property for himself, or for any member of his immediate family, his firm, or any member of his firm, or for any entity in which he has any ownership interest, without making his true position known to the owner in writing; in selling real property owned by a licensee or in which a licensee has any interest, those facts shall be revealed to the purchaser in writing.

§ 3.9. Licensees dealing on own account.

Any licensee failing to comply with the provisions of Title 54, Chapter 18 of the Code of Virginia, or the regulations of the Virginia Real Estate Board in performing any acts covered by §§ 54-730 and 54-731 of the Code of Virginia, may be charged with improper

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dealings, regardless of whether those acts are in the licensee's personal capacity or in his capacity as a real estate licensee.

§ 3.10. Investigation by board.

Upon the complaint of any person, the board shall may cause to be conducted an investigation of the actions of any licensee or registrant, or of any person who presumes to act in such capacity within this state the Commonwealth, provided such complaint together with any evidence presented with the complaint makes out a prima facie case of alleges a violation of Title 54, Chapter 18 of the Code of Virginia, or a violation of any of these regulations. The board may cause an investigation to be conducted upon its own motion.

~~3.11 Postponement of Administrative Hearing - If the matter which is to be considered in a hearing on a license is also the subject of judicial proceedings in a court of competent jurisdiction, the hearing may be postponed until after the conclusion of the judicial proceedings whenever:~~

~~3.11.1 The licensee is a defendant or respondent in such judicial proceedings, or, in the case of an appeal, was a defendant or respondent in the proceedings from which appeal is taken; and~~

~~3.11.2 It appears that issues common to both the hearing on the license and the judicial proceedings will be decided on their merits in the judicial proceedings. [Authority: § 54-1-28(5)]~~

~~3.12 § 3.11. Principal broker's responsibility for acts of associates.~~

Any unlawful act or violation of any of the provisions of Title 54, Chapter 18 or of Title 36, Chapter 5 of the Code of Virginia, or of the regulations of the board by any real estate salesperson, employee, partner or associate of a principal broker, shall may not be cause for disciplinary action against the principal broker unless it appears to the satisfaction of the board that the principal broker knew or should have known of the unlawful act or violation.

~~3.13 § 3.12. Effect of disciplinary action on subordinate licensees.~~

Action by the board resulting in the revocation, suspension, or denial of renewal of the license of any principal broker or sole proprietor shall automatically result in an order that the licenses of any and all individuals associated with or employed by the affected firm be returned to the board until such time as they are reissued upon the written request of a sole proprietor or principal broker pursuant to regulation § 3.1 6.2, subsection F, paragraph 2 of these regulations .

SECTION 4

PART IV.

SCHOOLS.

§ 4.1. Definitions.

As used in these regulations, unless a different meaning is plainly required by the context:

~~4.1.1~~ "Accredited colleges, universities and community colleges," as used in § 54-740(a) of the Code of Virginia, shall refer to means those accredited institutions of higher learning approved by the Virginia Council of Higher Education or listed in the "Report of Credit" Given by Educational Institutions Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers.

~~4.1.2~~ "Equivalent course" shall refer to means any course encompassing the principles and practices of real estate and approved by the board.

§ 4.2. Instructor qualifications.

Every applicant to the Virginia Real Estate Board for approval as an instructor shall have one of the following qualifications:

~~4.2.1~~ 1. Baccalaureate degree in real estate, or in business with a major in real estate or a closely related field; or

~~4.2.2~~ 2. Baccalaureate degree, a real estate license, and two years of discipline-free active real estate experience within the past five years ("active experience" shall be deemed to mean employment by or association with a broker in performing those activities defined in Virginia Code § 54-731 for an average of at least 20 hours per week); ("active experience" is defined in § 1.1, subsection A of these regulations); or

~~4.2.3~~ 3. Associate degree, or its equivalent, as indicated through continuing course work, plus five Seven years of discipline-free active experience acquired in the real estate field in the past ten years and an active broker's license. In any equivalent course under Virginia Code § 54-740(a), the continuing course work must be acceptable to the Board.

§ 4.3. Course evaluation and grading.

~~4.3.1~~ A. All real estate courses acceptable to the board are required to have a monitored, final written examination.

~~4.3.2~~ B. Students must obtain a minimum course grade of "C," or a minimum score of 75%.

§ 4.4. Texts.

A school may use any textbook chosen from a list of

approved texts maintained by the board.

§ 4.5. Educational environment.

All schools must be in a building conducive to academic purposes, with library facilities readily accessible to students at times other than their regularly scheduled class hours. Classroom arrangement should allow for workshop-type instruction and small-group activity. A maximum of 50 students is encouraged. Facilities must meet necessary building code standards, fire safety standards, and sanitation standards.

4.6 License Fee for Schools - The initial application fee shall be \$100.00, and the annual renewal fee shall be \$50.00. [Authority: §§ 54.1-28(4), 54-740]

4.7 § 4.6. Posting school ~~certificates~~ *certificate* of approval and license .

All schools to whom ~~certificates~~ *Certificate* of approval and license are granted must ~~be display~~ *displayed* them in each approved school facility in a conspicuous place readily accessible to the public.

4.8 § 4.7. Withdrawal of approval.

The board may withdraw approval of any school for the following reasons:

4.8.1 1. The school, instructors, or courses no longer meet the standards established by the board.

4.8.2 2. The school solicits information from any person for the purpose of discovering past examination questions or questions which may be used in future examinations.

4.8.3 3. The school distributes to any person copies of examination questions, or otherwise communicates to any person examination questions, without receiving the prior written approval of the copyright owner to distribute or communicate those questions.

4.8.4 4. The school, through an agent or otherwise, advertises its services in a fraudulent, deceptive or misrepresentative manner.

4.8.5 5. Officials, instructors or designees of the school sit for a real estate licensing examination for any purpose other than to obtain a license as a broker or salesperson.

4.9 § 4.8. Course content of real estate principles and practices.

The following shall ~~apply~~ *be included* in the *three-semester-hour or six-quarter-hour course which shall not have less than 45 classroom hours:*

4.9.1 Approved Courses

4.9.1.1 1. Economy and social impact of real estate

4.9.1.2 2. Real estate market and analysis

4.9.1.3 3. Property rights

4.9.1.4 4. Contracts

4.9.1.5 5. Deeds

4.9.1.6 6. Mortgages and deeds of trust

4.9.1.7 7. Types of mortgages

4.9.1.8 8. Leases

4.9.1.9 9. Liens

4.9.1.10 10. Home ownership

4.9.1.11 11. Real property and title insurance

4.9.1.12 12. Investment

4.9.1.13 13. Taxes in real estate

4.9.1.14 14. Real estate financing

4.9.1.15 15. Brokerage and agency contract responsibilities

4.9.1.16 16. Real estate marketing

4.9.1.17 17. Real property management

4.9.1.18 18. Search, examination, and registration of title

4.9.1.19 19. Title closing

4.9.1.20 20. Appraisal of residential and income producing property

4.9.1.21 21. Planning subdivision developments and condominiums

4.9.1.22 22. Regulatory statutes

4.9.1.23 23. Housing legislation

24. *Fair housing statutes*

25. *Virginia Real Estate Board regulations*

NOTE: THE PROPOSED ADDITIONS, NUMBERS 24 AND 25, WILL ONLY BECOME EFFECTIVE UPON ENACTMENT OF APPROPRIATE LEGISLATIVE CHANGES BY THE GENERAL ASSEMBLY.

4.10 § 4.9. Related subjects.

Final Regulations

"Related subjects," as referred to in § 54-740(b) of the Code of Virginia, shall be real estate related ~~with the exception of business law.~~ These subjects *and* shall include, but are not limited to, courses in property management, land planning and land use, business law, real estate economics, and real estate investments.

§ 4.10. *Required specific courses.*

Brokerage shall be a required specific course with three semester hours or six quarter hours constituting a complete course.

§ 4.11. Credit for broker-related courses.

No more than three semester hours or ~~six~~ *three* quarter hours of broker-related courses shall be accepted in lieu of specific broker courses.

§ 4.12. Broker-related course approval procedure.

Schools intending to offer equivalent broker courses must submit to the board for approval a copy of the syllabus of the particular course and a copy of the textbook to be used with a cover letter requesting approval. In addition, the school must accompany these materials with a copy of a comparable course syllabus from an accredited university, college, or community college to establish equivalency.

All citations of the authority are pursuant to the Code of Virginia.

All previous regulations of the Real Estate Board are repealed with the exception of Section 12, Fair Housing Regulations, adopted May 22, 1980, and June 5, 1980, effective September 15, 1980; Condominium Regulations, adopted January 16, 1978, effective August 1, 1978; and Time-Share Regulations, adopted December 15, 1982, effective July 1, 1983.

REAL ESTATE SALESPERSON APPLICATION INSTRUCTIONS

THE VIRGINIA REAL ESTATE BOARD
 3600 West Broad Street, 5th Floor
 Richmond, Virginia 23230-4917
 (804) 257-8526 or Toll Free 1-800-552-3016 (Virginia Only)

GENERAL INSTRUCTIONS

1. PLEASE READ THESE INSTRUCTIONS AND REVIEW THE APPLICATION BEFORE COMPLETING.
2. Print or type.
3. All application and renewal fees are non-refundable.
4. All items must be properly completed or the application will be returned to the applicant for completion and resubmittal, thus delaying processing.
5. Nonresident notaries must use seal.
6. MAIL COMPLETED FORMS TO: COMMONWEALTH OF VIRGINIA, DEPARTMENT OF COMMERCE, P. O. BOX 11066, RICHMOND, VIRGINIA 23230-1066
7. DO NOT RETURN INSTRUCTIONS WITH APPLICATION.

APPLICATION FORM INSTRUCTIONS

1. Indicate whether you are applying for licensure by education and examination in this state or by reciprocity from another state where you are currently licensed in real estate. (Please see regulations 2.1 and 2.3.)
2. Complete your full legal name (do not use initials), generation (Jr., Sr., III, etc.), and title.
3. List other names you have used, i.e., various spellings, maiden name, previous married name, etc.
4. Complete your current residential address. Place street name in "Address 2" line as the Post Office will deliver your renewal application to the address in this line. A post office box number is not acceptable.
5. Provide complete residential addresses for previous five years.
6. Provide residential and current office or daytime telephone numbers.
7. Disclosure of your Social Security Number is helpful to ensure identification and will aid in processing your application.
8. Indicate date of birth; applicant must be at least 18 years of age.
9. Indicate your place of birth.

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10. Provide name of school where "Principles of Real Estate" course was completed.
11. Provide name of your school instructor for "Principles of Real Estate" course.
12. Give full explanation on a separate sheet of paper and submit with original or certified true copies (xeroxed copy with your signed and notarized statement--"I certify that this is a true copy.") of court documents if you checked "yes." This explanation should include date and place of offense, date and place of conviction, name of court, the part you played at the time the offense occurred, and charge and final disposition--jail term, fine, amount, probation terms, etc., as well as date of disposition.
13. If you have ever been issued a salesperson and/or broker license in Virginia, provide date(s) and license number(s).
14. If you have ever been issued a real estate license in any other jurisdiction, provide name of jurisdiction(s).
15. If you have ever been refused a real estate license in any jurisdiction(s), please provide details including date of denial, name of jurisdiction, reason(s) licensing was denied.
16. If you will not be actively employed in real estate nor associated with a broker but wish to be placed on inactive status, check "yes." If you check "yes," item 17 does not need to be completed.
17. Have your principal broker or sole proprietor complete item 17 only if you are to be actively engaged in real estate and associated with that broker.
18. All applicants must complete this section. Applicant's affidavit must be signed and notarized.

LICENSURE BY EXAMINATION

Include the following with your completed application:

1. a copy of PASS NOTICE from testing service. Exam must have been passed within 12 months immediately preceding receipt of application by the Virginia Real Estate Board;
2. a CHECK in the amount of \$50 made payable to "Treasurer of Virginia." This includes the \$30 non-refundable application fee plus a \$20 assessment for the Virginia Real Estate Transaction Recovery Fund;
3. a CERTIFICATION OF LICENSURE from each state in which you now hold or have ever held a real estate license must be dated no more than 30 days prior to receipt of your application by the Virginia Real Estate Board. This is not a copy of your license. It is an official history of licensure prepared by the licensing agency;

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- 4. a "CONSENT TO SUITS AND SERVICE OF PROCESS" form if your residence is not in Virginia must be notarized, with seal;
- 5. In addition, request an ORIGINAL TRANSCRIPT with seal from the college where "Principles of Real Estate" was taken. Please send fee to your college to have transcript sent directly to the Virginia Real Estate Board. Certificates from distributive education or proprietary schools must be originals or copies certified as true copies by a Notary Public.

VIRGINIA REAL ESTATE BOARD
 ATTN: CC 490
 3600 West Broad Street, 5th Floor
 Richmond, Virginia 23230-4917
 (804) 257-8526 or Toll Free 1-800-552-3016 (Virginia Only)

REAL ESTATE SALESPERSON APPLICATION

PLEASE READ THE INSTRUCTIONS AND APPLICATION CAREFULLY BEFORE COMPLETING

LICENSURE BY RECIPROCITY

Regulation 2.3 states that applicant must be currently licensed in another jurisdiction and have received license by virtue of passing a written examination in the jurisdiction of original licensure. Include the following with your completed application when applying for licensure by reciprocity in Virginia:

- 1. a CHECK in the amount of \$75 made payable to the "Treasurer of Virginia." This includes the \$55 non-refundable application fee plus a \$20 assessment for the Virginia Real Estate Transaction Recovery Fund;
- 2. a CERTIFICATION OF LICENSURE from each state in which you now hold or have ever held a real estate license must be dated no more than 30 days prior to receipt of application by the Virginia Real Estate Board. This is not a copy of your license. It is an official history of licensure prepared by the licensing agency;
- 3. a "CONSENT TO SUITS AND SERVICE OF PROCESS" form if your residence is not in Virginia must be notarized, with seal;

PLEASE ALLOW AT LEAST THREE WEEKS FOR PROCESSING. IF A CRIMINAL OFFENSE IS INVOLVED, PROCESSING MAY TAKE UP TO EIGHT WEEKS.

- 1. I hereby make application for a real estate salesperson license:
 By Examination (Fee: \$50) _____ By Reciprocity (Fee: \$75) _____
- 2. Applicant's Name:
 Last Name Only _____ Generation _____
 First Name Only _____
 Middle Name Only _____
 Title: Mr. _____ Ms. _____ Mrs. _____ Miss _____
- 3. Other names which you have used: _____
- 4. Applicant's Legal Residence: _____
 Address 1 -- Apt. No. _____
 Address 2 -- Street _____
 City _____
 State and Zip Code _____
- 5. Previous Residential Addresses:

- 6. Telephone Numbers: (Residence) (_____)
 (Day) (_____)

Enf. Req. _____	Lic. Iss.: _____
Enf. Ck. _____	Date: _____
Bd. Rev. _____	App. Rej.: _____
Bd. Rev. _____	Date: _____

- 7. Social Security Number: _____
- 8. Date of Birth: _____
- 9. Place of Birth: City _____ State _____
- 10. Name of school where Principles of Real Estate course was completed: _____
- 11. Name of instructor: _____
- 12. Have you been convicted of any criminal offense other than a minor traffic violation, or is there any such charge pending against you? If yes, provide details as outlined in instructions. YES ___ NO ___
- 13. Have you ever been issued a real estate license in Virginia as a salesperson _____ and/or a broker _____? If yes, give date(s) and license number(s) YES ___ NO ___
- 14. Have you ever been issued a real estate license in any other jurisdiction? Name of jurisdiction(s) YES ___ NO ___
- 15. Have you been refused a real estate license in any jurisdiction? If yes, which jurisdiction(s)? YES ___ NO ___
- 16. Do you want to be placed on inactive status? YES ___ NO ___
- 17. PRINCIPAL BROKER OR SOLE PROPRIETOR MUST COMPLETE IF A LICENSE IS TO BE ISSUED AT THIS TIME FOR ACTIVE STATUS:

I, _____, the undersigned, a
 (Principal Broker's Name, Printed or Typed)
 licensed real estate broker in the Commonwealth of Virginia, being duly sworn, depose and say that the statements made and the answers to questions set forth below are true to the best of my knowledge.

I hereby authorize _____ to apply for a license as a real estate licensee to be supervised by me and do whatever is necessary to obtain such a license, and I hereby assume responsibility for the licensee pursuant to Regulation 3.12 (after 7/15/87, Regulation 3.11).

This license is to be issued to the applicant under the firm listed below:

Firm Name _____
 Trading-as Name _____
 Address _____

Firm License Number _____

Firm Telephone Number (_____) _____

In my opinion the applicant has a good reputation for honesty, truthfulness, and fair dealing, and is competent to transact the business of a real estate salesperson in such a manner as to safeguard the interests of the public.

 (Signature of Principal Broker or Sole Proprietor)

 (Broker's License Number)

Notary:

Subscribed and sworn to before me this _____ day of _____, 19____, at _____ (City or county and state)

 (Officer Administering Oath)

Notary public in County/City of _____ State of _____

My Commission expires _____

18. ALL APPLICANTS MUST COMPLETE THIS SECTION:

The undersigned, being duly sworn, deposes and says that he/she is the person who executed application, that the statements herein contained are true, that he/she has not suppressed any information that might affect this application, and that he/she has read and understands the Virginia Real Estate Board regulations and license law, as well as this affidavit.

Notary:

Subscribed and sworn to before me this _____ day of _____, 19____, at _____ (City or county and state) _____ (Officer Administering Oath)
 Notary public in County/City of _____ State of _____
 My Commission expires _____

DO NOT RETURN INSTRUCTIONS WITH APPLICATION

ENCLOSURES:

BY EXAMINATION

- ___ Pass Notice
- ___ Check (\$50)
- ___ Certification(s) of Licensure, if applicable
- ___ "Consent to Suits and Service of Process" form, if applicable

OTHER

- ___ Item 12
- ___ Item 15

BY RECIPROCITY

- ___ Check (\$75)
- ___ Certification(s) of Licensure
- ___ "Consent to Suits and Service of Process" form, if applicable

OTHER

- ___ Item 12
- ___ Item 15

FEE: \$70.00

THE VIRGINIA REAL ESTATE BOARD
 3600 West Broad Street
 Richmond, Virginia 23230
 REPLY: Attn: CC-490
 Toll Free 1-800-552-3016

FEE: \$70.

ORIGINAL APPLICATION FOR BROKERS LICENSE
 FOR
 CORPORATIONS-PARTNERSHIPS-ASSOCIATIONS

Please Type or Print

I. Name of Firm, Partnership, Association or Corporation. _____ Phone No. _____
 Main Place of Business _____ (Include street number, city/county, state, zip code)
 Designated Principal Broker _____

ATTACH A COPY OF CORPORATION CHARTER. A FOREIGN VIRGINIA CORPORATION MUST ALSO ATTACH A COPY OF REGISTRATION CERTIFICATE FROM THE STATE CORPORATION COMMISSION OF VIRGINIA

PLEASE MAKE CHECK PAYABLE TO THE "TREASURER OF VIRGINIA" (Includes Recovery Act Assessment)

II. Give name and address of all officers and indicate in the appropriate box whether officer active or inactive in firm's brokerage business.

Name	Address	Title	Active	Inacti
1. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
2. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
3. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
4. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
5. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
6. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
7. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
8. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

I, duly authorized representative of _____ being duly sworn according to law, depose and say that the answers above set forth are true to the best of my knowledge and belief and that application is made for the purpose of inducing issuance of license requested.

 Typewritten Name and Signature of Applicant
 (Active Officer)

Sworn and subscribed to before me at _____ (City or County and State)
 this _____ day of _____, 19_____.

 Notary Public
 My Commission Expires _____

THE VIRGINIA REAL ESTATE BOARD
 3600 West Broad Street
 Richmond, Virginia 23230
 Toll Free 1-800-552-3016

FORM C-1
 CERTIFICATE OF OWNERSHIP,
 PARTNERSHIP OR ASSOCIATION

Name of Firm _____
 Address of Firm _____
 Street and No. City and Town State Zip

Names of Associate(s) or Partners(s)	Legal Residence	Post Office	Percentage of Business

** ALL ACTIVE PARTNERS MUST BE BROKERS **

REGULATION 1.6

I certify that the above information is correct to the best of my knowledge and belief, and is given for the purposes of securing a license to act as a real estate broker in the Commonwealth of Virginia.

Date _____ Signature of Partner or Associate _____

PRINCIPAL BROKER _____

FORM C-2
 CERTIFICATE OF OWNERSHIP
 INDIVIDUAL TRADING UNDER AN ASSUMED OR FICTITIOUS NAME

Trade Name _____
 Business Address _____

REGULATION 1.5

I hereby certify that I am the sole owner of the above described real estate brokerage firm. I further certify that I have complied with the provisions of § 59.1-69, Code of Virginia, in that I have filed the Certificate provided for therein with the Clerk of the Court in the political subdivision in which my place of business is located.

Attest: _____
 Signature of REAL ESTATE BROKER

Clerk of Court _____
 Residential Address - STREET

THE VIRGINIA REAL ESTATE BOARD
 3600 West Broad Street
 Richmond, Virginia 23230
 REPLY: Attn: CC-490
 Toll Free 1-800-552-3016

FORM C-3
 CORPORATION

Please Type or Print

Check Appropriate Block(s):

- New Corporation Change of Officers of Corporation Computer Request
 Change of Corporation Name/Address Change of Principal Broker

Corporate Name: _____

Address of Main Place of Business: _____

Each corporation, acting as a real estate broker in accordance with § 54-749, Code of Virginia, shall execute the following Certificate:

NOTE: SHOW ACTIVE OFFICERS ON THIS SHEET. ALL ACTIVE CORPORATE OFFICERS MUST BE BROKERS. Continue on additional sheet if necessary.

Officers of Corporation:

Name of Each Officer	Title	Legal Residence	City/State/Zip	Status in Brokers	
				Active	Inactive

Principal Broker: _____

Board of Directors:

Name of Each Director	Legal Residence	City/State/Zip

I hereby certify that the above information is correct to the best of my knowledge and belief and is given for the purpose of securing a real estate broker's and/or salesperson's license for the officers and employees of the said corporation.

 Typewritten Name and Signature of President of Corporation

ATTEST: _____ DATE: _____

THE VIRGINIA REAL ESTATE BOARD
3600 West Broad Street, Richmond, Virginia 23230
Toll Free (VA only) 1-800-552-3016

APPLICATION FOR FIRM CHANGE OF NAME OR ADDRESS
INSTRUCTIONS

1. Complete only one form.
2. Individual changes of status (change in home address or affiliation) must be submitted separately on the appropriate form. If change of affiliation is not submitted prior to this application, the firm will receive a license for that licensee.
3. The principal broker's notarized signature is mandatory.
4. Attach all sales and broker licenses, in alphabetic order, by surname.
5. Attach firm license.
6. Return to the Virginia Real Estate Board, Attention CC-490.
7. There is no fee.
8. Licenses will be issued for the firm as well as all salespersons and brokers.
9. Request for: Change of Firm Name Change of Firm Address

PRESENT FIRM LICENSE INFORMATION

1. Firm Name _____ (Phone) _____
2. Firm Address _____ (Number and Street) _____ (City/State/Zip) _____

NEW FIRM LICENSE INFORMATION

1. Firm Name _____ (Phone) _____
2. Firm Address _____ (Number and Street) _____ (City/State/Zip) _____

Supervising Broker--Printed/Typed _____ Supervising Broker--Signature _____

Date _____ Broker License Number _____

Sworn to and subscribed before me this _____ day of _____, 19 _____.

My commission expires:

9/86

Notary Public

Reply Attn: CC-490

NO FEE

THE VIRGINIA REAL ESTATE COMMISSION
1600 West Broad Street
Richmond, Virginia 23230
Toll Free 1-800-552-3016

NO FEE

APPLICATION FOR TRANSFER OF LICENSE DUE TO

- _____ Change of Affiliation
- _____ Change of Firm Name
- _____ Change of Firm Address

Applicant Certificate Number _____ Phone Number _____

Name of applicant _____

Current home address _____ (Number and Street) _____ (City/State/Zip) _____

PRESENT LICENSE INFORMATION

1. Firm/Broker Name _____ (Phone) _____
2. Firm/Broker Address _____ (Number and Street) _____ (City/State/Zip) _____

NEW LICENSE TO BE ISSUED TO

1. Firm/Broker Name _____ (Phone) _____
2. Firm/Broker Address _____ (Number and Street) _____ (City/State/Zip) _____

PRESENT LICENSE MUST BE RETURNED BY CERTIFIED MAIL FROM THE BROKER TO WHOM IT IS ISSUED.

I _____, the applicant certify that I have requested my present broker to return my license to the Commission in compliance with Regulation 3.1.6.3.

Date _____ Signature of Applicant _____

The applicant will be under my supervision and I believe that he/she is competent to transact business as a _____ Broker _____ Associate Broker _____ Salesman.

Supervising Broker--Printed/Typed _____ Supervising Broker--Signature _____

Date _____ Broker Certificate Number _____

* THIS APPLICATION WILL BE RETURNED IF ALL ITEMS ARE NOT COMPLETED.



FEE \$15.00
"TREASURER OF VA"

FEE \$15.00
"TREASURER OF VA"

COMMONWEALTH of VIRGINIA

Department of Commerce

DAVID R. HATHCOCK
Director

3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23230 - 4917

TELEPHONE: (804) 257-8500
TOLL FREE: 1 (800) 552-3016

THE VIRGINIA REAL ESTATE BOARD

APPLICATION FOR BRANCH OFFICE LICENSE

(PLEASE TYPE OR PRINT)

- Name of Applicant (Principal Broker): _____
- Name under which applicant conducts business: _____
- Give address of principal place of business (Street & Number, City or Town, State):

Telephone: _____
- State the location for which branch office license is requested (Street & Number, City or Town, State):

Telephone: _____
- Name, home address, and license number of real estate broker who will supervise branch office:

License No.: _____

Regulation 3.2 states that only the branch office license shall be maintained at the branch office location.

The applicant above named, deposes and says he/she is the applicant above named or is a member of the partnership, or an officer of the corporation in behalf of which the above application is made, that he/she has read the foregoing application and the answers thereon noted, that such answers are true to his/her knowledge except as to any matter therein stated to be alleged upon information and belief and that as to such matter he/she believes it to be true, and that he/she personally attached his/her signature to this affidavit.

Date: _____

(Signature of Applicant/Principal Broker)



COMMONWEALTH of VIRGINIA

Department of Commerce

DAVID R. HATHCOCK
Director

3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23230 - 4917

TELEPHONE: (804) 257-8500
TOLL FREE: 1 (800) 552-3016

REGULATION 1.7 - DUPLICATE LICENSES

PLEASE COMPLETE THIS FORM AND RETURN WITH APPLICATION FOR CORPORATION-PARTNERSHIP, C-#3 OR C-#1 FORM, AS APPLICABLE, AND \$70.00 FEE.

IF APPLYING AS INDIVIDUAL TRADING UNDER AN ASSUMED OR FICTITIOUS NAME, SUBMIT WITH C-#2 FORM. NO FEE REQUIRED.

PLEASE NOTE: REGULATION 3.1.7 - OFFICE SUPERVISION

Virginia Real Estate Commission
3600 West Broad Street
Richmond, Virginia 23230

Dear Commissioners:

I am currently principal broker for _____

CERTIFICATE NUMBER _____, and I will also be principal
Broker for _____

DATE: _____ CERTIFICATE NUMBER OF PB _____

Signature of Principal Broker



COMMONWEALTH of VIRGINIA

Department of Commerce

DAVID R. HATHCOCK
Director

3800 WEST BROAD STREET, RICHMOND, VIRGINIA 23220 4917

RONALD K. LA'NE
Senior Deputy Director

VIRGINIA REAL ESTATE BOARD

BROKER EDUCATIONAL REQUIREMENTS - REVISED 1/87

GENERAL COURSE INFORMATION

Every salesperson applicant to the Virginia Real Estate Board for an original license as a real estate broker by examination shall have completed courses in real estate approved by the Board. Requirements which became effective July 1, 1981 are: (1) Semester Courses--12 semester hours are required. All 4 specific broker courses or a combination of 3 specific and 1 related broker course may be taken; (2) Quarter-hour Courses--18 quarter hours are required. All specific courses plus 1 related broker course must be taken. Brokerage, comprised of Brokerage I and II, is a two-quarter course.

A minimum course grade of "C" or "75%" and a monitored, final written examination are required for each course.

Principles of Real Estate is for salespersons only. It cannot be used as a broker course.

SPECIFIC BROKER COURSES

Specific broker courses are Real Estate Brokerage, Real Estate Finance, Real Estate Appraisal, and Real Estate Law.

If the course Legal Aspects of Real Estate is taken at a school that offers Real Estate Law, the broker applicant must bear the burden of proof that Legal Aspects of Real Estate is the same as Real Estate Law.

NOTE: In the community college system, Brokerage requires two quarters, Brokerage I and Brokerage II, which is six quarter hours. When the revised regulations become effective in early 1987, Brokerage will be a required specific course rather than just a specific course.

- O V E R -



COMMONWEALTH of VIRGINIA

Department of Commerce

DAVID R. HATHCOCK
Director

3800 WEST BROAD STREET, RICHMOND, VIRGINIA 23220 4917

RONALD K. LA'NE
Senior Deputy Director

VIRGINIA REAL ESTATE BOARD

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- O V E R -

RELATED BROKER COURSES

Related broker courses approved by the Board include: Business Law, Property Management, Land Planning and Use, Real Estate Economics, Real Estate Investments, Urban Development, Real Estate Abstracting, and the following sets of courses (equivalent to one semester)--GRI, SIR (two parts completed), CRB 301-305 (five parts completed), and CCIM (five parts completed).

If the course Real Estate Sales is completed after January 1, 1982, it will be credited as a related broker course.

Real Estate Math is only acceptable as a broker related course through December 1986.

Commercial Real Estate Sales utilizing the text Commercial-Investment Real Estate: Marketing and Management is only acceptable as a quarter-hour broker related course through September 1988.

EXAMINATION SCHEDULE

Applications for examination are made by securing from the Virginia Real Estate Board "Application for Real Estate Broker Licensing Examination" form and filing with required fee directly to American College Testing Real Estate Examination Services in accordance with the schedule shown on the form. Persons applying for the examination must have met the educational requirements by the testing date. The applicant must have been actively licensed as a salesperson and working at least 20 hours per week for 36 of the 40 months immediately prior to applying for licensing.

INACTIVE LICENSE

Section 1.4.7: Any licensee who has not been issued a license and is on inactive status under the provisions of regulation 3.1.6.2 for a period greater than three years shall be required to meet the educational requirements for a salesperson or broker in effect at the time written request for issuance of such license is filed with the Board.

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VIRGINIA REAL ESTATE BOARD
3600 West Broad Street, 5th Floor
Richmond, Virginia
(804) 257-8526 or Toll Free 1-800-552-3016 (Virginia Only)

Real Estate Broker Application Instructions

GENERAL INSTRUCTIONS:

1. PLEASE READ THE INSTRUCTIONS AND APPLICATION CAREFULLY BEFORE COMPLETING.
2. Print or type.
3. All application and renewal fees are nonrefundable.
4. All applicable items must be properly completed or application will be returned and processing will be delayed.
5. Nonresident notaries must use seal.
6. It is mandatory that all persons applying for broker license shall have been actively engaged as a real estate salesperson for a period of 36 of the 40 months immediately preceding application. "Actively engaged" shall be deemed to mean employment by, or association with, a broker in performing those activities defined in Virginia Code §54-731 for an average of at least twenty (20) hours per week.
7. Please note that the principal broker must sign, date and return to the Board by certified mail your Virginia salesperson license before your broker license can be issued.
8. Do not return instructions with application.
9. MAIL COMPLETED FORMS TO: COMMONWEALTH OF VIRGINIA, DEPARTMENT OF COMMERCE, P. O. BOX 11066, RICHMOND, VIRGINIA 23230-1066, ATTENTION: CC 490.

APPLICATION FORM INSTRUCTIONS:

1. Check the appropriate block to indicate whether you are applying for licensure as a principal broker, associate broker, or sole proprietor of a firm. (See Regulations for description of terms.)
2. Check the appropriate block to indicate whether you are applying for licensure by examination or by reciprocity from another jurisdiction.
3. Complete your full legal name (do not use initials), generation (Jr., Sr., III), and title.
4. List other names which you have used (include various spellings, maiden name, etc).

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5. Complete your current residential address; a street address must be provided. The Post Office will deliver your renewal application to address listed in Address 2 line if both a street and a P. O. Box number are given. If residence is outside Virginia, a "Consent to Suits and Service of Process" form must be completed and attached.
6. Telephone numbers: residence and office telephone numbers.
7. Disclosure of your Social Security number is helpful to ensure identification and to aid processing of your application.
8. Provide date of birth; applicant must be at least 18 years of age.
9. Provide place of birth.
10. Give full explanation of any conviction on a separate sheet of paper and submit with certified court documents if you have checked "yes." List date and place of offense, original indictment, date and place of conviction, name of court, details of the part you played at time offense occurred, and final conviction charges (jail term, fine amount, probation terms, etc.).
11. Indicate date(s) and license number(s) if you have been issued a salesperson and/or broker license in Virginia.
12. List other jurisdictions in which you have ever had or now have licensure.
13. List jurisdictions in which you were ever refused licensure.
14. Check "yes" for Item 14 if you are applying for inactive status. If checked "yes," do not complete Items 15 or 16. You will receive acknowledgement of your inactive status.
15. If you are applying as an active associate broker and if you desire your license to be issued to a real estate firm or sole proprietorship at this time, the principal broker of the firm or the sole proprietor, must complete this item in the presence of a Notary Public. Any real estate broker affixing his/her signature to this certification and knowing such certification to be false, will be liable for disciplinary action by the Virginia Real Estate Board.
16. If applying as an active principal broker, give name of firm.
 If applying as an active sole proprietor, give your full name (no additional form is required).
 If you wish to trade under an assumed or fictitious name (a name other than your full name), give trading-as name and submit a completed C-2 form.
 If applying for a corporation license, complete corporation application and C-3 form.
 If applying as a partnership, attach partnership application and C-1 form.

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Provide address and telephone number of firm. A street address must be provided for our records on either Address 1 or Address 2; a post office box number may also be provided. The Post Office will deliver to the address noted in Address 2.

17. All applicants by education and examination must have the principal broker of the firm or the sole proprietor complete this in the presence of a Notary Public.

If this certification does not cover 36 of the previous 40 months, have your previous brokers submit affidavits with notarized signatures until your certifications cover 36 of the 40 months preceding submission of application.

If your previous brokers are unwilling to supply this information, submit affidavits signed by at least two duly licensed real estate brokers certifying that you have been actively engaged (employed by, or associated with a broker in performing those activities defined in Virginia Code §54-731) for an average of at least 20 hours per week for 36 of the 40 months preceding submission of application.

18. All applicants must complete item 18 in the presence of a Notary Public.

LICENSURE BY EXAMINATION:

Include the following to complete your application:

1. A copy of pass notice from the testing service;
2. A check in the amount of \$50 made payable to the "Treasurer of Virginia." This includes \$30 application fee plus \$20 assessment fee for the Virginia Real Estate Transaction Recovery Fund;
3. A certification of licensure from each jurisdiction in which you now hold or have ever held a real estate license dated no more than 30 days prior to submission of this application. This is not a copy of your license. This is an official history of licensure prepared by the licensing agency;
4. A "Consent to Suits and Service of Process" form if your residence is not in Virginia must be notarized, with seal;
5. Original transcript(s) with seal from the educational institution(s) where broker educational courses were taken. Please send fee to your college to have transcript(s) sent directly to the Virginia Real Estate Board. Certificates from distributive education classes or proprietary schools must be originals or copies certified as true copies by a Notary Public.
6. Please note that your broker must sign, date, and return to the Board by certified mail your Virginia salesperson license before your broker license can be issued.

(3)

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LICENSURE BY RECIPROCITY

In the jurisdiction of original licensure, applicant must have received a license by virtue of passing a written examination. Include the following to complete your application:

1. A check in the amount of \$95 made payable to "Treasurer of Virginia." This includes your \$75 application fee plus \$20 assessment fee for the Virginia Real Estate Transaction Recovery Fund;
2. A certification of licensure from each jurisdiction in which you now hold or have ever held a real estate license must be dated no more than 30 days prior to submission of application. This is not a copy of your license. It is an official history of licensure prepared by the licensing agency;
3. A "Consent to Suits and Service of Process" form if your residence is not in Virginia must be notarized, with seal;
4. The applicant must submit at least two affidavits from individuals in each prior jurisdiction certifying that the broker applicant has been actively engaged an average of 20 hours per week or more in the brokerage business for 36 of the 40 months immediately prior to applying for the Virginia license. If statements are not on letterhead, name and address (either home or business) of affiant must be given. Signatures on these documents must be notarized and sealed by a Notary Public.

PLEASE ALLOW AT LEAST THREE WEEKS FOR PROCESSING. IF A CRIMINAL OFFENSE IS INVOLVED, PROCESSING MAY TAKE UP TO EIGHT WEEKS.

PROCESSING WILL BE DELAYED IF INCOMPLETE OR INACCURATE SUBMISSIONS ARE MADE.

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VIRGINIA REAL ESTATE BOARD
 3600 West Broad Street, 5th Floor
 Richmond, Virginia
 (804) 257-8526 or Toll Free 1-800-552-3016 (Virginia Only)

REAL ESTATE BROKER APPLICATION

PLEASE READ THE INSTRUCTIONS AND APPLICATION CAREFULLY BEFORE COMPLETING

1. I hereby make application for a real estate broker license as:
 ___ Principal Broker ___ Associate Broker ___ Sole Proprietor
2. I am applying by:
 ___ Examination (Fee \$50) ___ Reciprocity (Fee \$95)
3. Applicant's Name:
 Last Name Only _____ Generation _____
 First Name Only _____
 Middle Name Only _____
 Title ___ Mr. ___ Ms. ___ Mrs. ___ Miss _____
4. Other names which you have used: _____
5. Applicant's Legal Residence:
 Address 1-- Apt No. _____
 Address 2-- Street _____
 City _____
 State and Zip Code _____
6. Telephone Numbers: Residence () _____
 Firm () _____
7. Social Security Number: _____
8. Date of Birth: _____
9. Place of Birth: City _____ State _____
10. Have you ever been convicted of any criminal offense ___ YES ___ NO
 other than a minor traffic violation, or is there
 any such charge pending against you?

Enf Req. ___ Lic Iss: ___
 Enf Ck. ___ Date: ___
 Bd. Rev. ___ App. Rej: ___
 Bd. Rev. ___ Date: ___

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11. Have you ever been issued a real estate license in Virginia as a Salesperson Broker? If yes, give date(s) and license number(s):

12. Have you ever been issued a real estate license in any other jurisdiction? Name of jurisdiction(s):

13. Have you ever been refused a real estate license in any other jurisdiction? Name of jurisdiction(s):

14. Do you want an associate broker's license on inactive status?

15. PLEASE COMPLETE ONLY IF A LICENSE AS AN ACTIVE ASSOCIATE BROKER IS TO BE ISSUED AT THIS TIME:

I, the undersigned, a licensed real estate broker in the Commonwealth of Virginia, being duly sworn, depose and say that the statements made and the answers to questions set forth below are true to the best of my knowledge.

I hereby authorize to apply for a license as a real estate licensee to be supervised by me and do whatever is necessary to obtain such a license, and I hereby assume responsibility for the licensee pursuant to Regulation 3.12. This license is to be issued to:

Firm Name:

Firm License Number:

In my opinion, the applicant has a good reputation for honesty, truthfulness, and fair dealing, and is competent to transact the business of a real estate broker in such a manner as to safeguard the interests of the public.

(Signature of Principal Broker) (Broker's License Number)

State of

City/County

Sworn and subscribed to before me at this day of 19

(Notary Public) (My commission expires)

(Seal) (2)

16. PLEASE COMPLETE ONLY IF A LICENSE AS AN ACTIVE PRINCIPAL BROKER OR SOLE PROPRIETOR IS TO BE ISSUED AT THIS TIME:

Name of Firm (or Broker's full name for a sole proprietorship):

Trading-As-Name:

Address 1:

Address 2:

City, State and Zip Code:

Telephone Number: ()

17. THIS ITEM MUST BE COMPLETED FOR ALL APPLICANTS BY EDUCATION AND EXAMINATION:

I, the undersigned real estate broker, being sworn according to law, depose and say that the answers above set forth are true to the best of my knowledge and belief, and that the information is given for the purpose of recommending to the Virginia Real Estate Board that the applicant be permitted to receive the real estate broker license in accordance with its regulations.

This is to certify that has been employed by or associated with our firm and has been actively engaged as a real estate salesperson for an average of at least 20 hours per week for a period of at least months.

Firm Name Principal Broker's Signature

State of Broker's License Number

Sworn and subscribed to before me at this day of City/County

19

(Notary Public) My commission expires

(Seal)

18. ALL APPLICANTS MUST COMPLETE THIS SECTION IN THE PRESENCE OF A NOTARY PUBLIC:

The undersigned being duly sworn, deposes and says that he/she is the person who executed application, that the statements herein contained are true, that he/she has not suppressed any information that might affect this application, that he/she has read and understands the Virginia Real Estate Board regulations and license law, and that he/she has read and understands this affidavit.

Signature of Applicant

Sworn and subscribed to before me this ___ day of ___, 19__.

My commission expires _____

(Seal)

ENCLOSURES:

BY EXAMINATION

- Pass Notice
Check (\$50)
Certification(s) of Licensure, if applicable
"Consent to Suits and Service of Process" form for nonresidents
C-1 form, if applicable
C-2 form, if applicable
C-3 form, if applicable
additional broker affidavits, if applicable

BY RECIPROCITY

- Check (\$95)
Certification(s) of Licensure, if applicable
"Consent to Suits and Service of Process" form for nonresidents
C-1 form, if applicable
C-2 form, if applicable
C-3 form if applicable

NOTE: Principal broker must sign, date and return to the Board by certified mail your Virginia salesperson license before your broker license can be issued.

VIRGINIA REAL ESTATE BOARD
3600 West Broad Street
Richmond, Virginia 23220
Toll Free in Virginia 1-800-552-3016

REPL: A199: CC-49

APPLICATION TO ACTIVATE INACTIVE SALESPERSON LICENSE

NOTE: This form is not to be used for applicants who have never obtained an original license

ANSWERS ARE TO BE TYPEWRITTEN OR PRINTED

Social Security Number
Place of Birth
Date of Birth (Month) (Day) (Year)

1. Legal name of applicant Mr. Mrs. (First) (Middle) (Last)
2. Legal residence (Number & Street) (City/State/Cip) (Phone)

NOTE: A person who is not a bona fide resident of Virginia must file with the Virginia Real Estate Board an irrevocable consent in writing to the Secretary of the Board for service in suits in Virginia. A form to accomplish the foregoing will be furnished by the Licensing Section.

3. I am to be employed by: (Firm/Broker) (Number & Street) (City, State & Zip) (Telephone)

- 4. Has any complaint been filed against you with this Board or that of any other state or District of Columbia during the past five years? If "Yes" give full particulars on a separate sheet of paper. (Yes or No)
5. Are you now a party, either complainant or defendant, in any litigation involving a real estate transaction with which you were connected as a real estate broker or salesperson? (Yes or No)
6. Have you been convicted, within the past five years, in a court of competent jurisdiction of this or any other state, or of the District of Columbia, or of the United States, of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, bribery, burglary, robbery, a felony involving personal injury to a victim, or rape, or having been found guilty of a violation of Chapter 5, Title 36, Virginia Fair Housing Law, as provided in Virginia Code Section 36-95.2, there being no appeal pending therefrom or the time therefor having elapsed? (Yes or No)
7. State if you have ever been convicted of any criminal offense other than a minor traffic violation, or if there is any such criminal charge now pending against you, or any member or officer of your firm, partnership or corporation: If "Yes" give full particulars on separate sheet of paper. Statement not needed if already on file with the Board.

HAS YOUR NAME CHANGED SINCE ORIGINALLY LICENSED? IF SO PLEASE NOTE. MUST ATTACH COPY OF INACTIVE STATUS CARD OR EVIDENCE OF PREVIOUS LICENSURE

The applicant being duly sworn according to law, deposes and says that the answers on this application are true to the best of his/her knowledge and belief and that the information in this application is given for the purpose of being issued the license applied for. He/she thoroughly understands that after the license applied for has been issued, if the information contained in this application is false, such license may be revoked.

State of Signature of Applicant
Sworn and subscribed to before me at this day of City/County

My Commission expires
Seal required if outside of Virginia Notary Public

SEE REVERSE SIDE

THE VIRGINIA REAL ESTATE COMMISSION
3600 West Broad Street
Richmond, Virginia 23230

To be executed by non-resident Real Estate Salesperson or Broker

CONSENT TO SUITS AND SERVICE OF PROCESS
(Section 54-773, Code of Virginia, 1950)

READ CAREFULLY BEFORE ANSWERING QUESTIONS AND EXECUTING AFFIDAVIT. ALL ANSWERS MUST BE COMPLETE AND TYPEWRITTEN/PRINTED.

Name of applicant: _____

Legal Residence Address: _____
Number/Street City/State Zip

WHEREAS, I, the above-named applicant for license privilege as salesman ()/associate broker ()/or broker () trading and/or operating individually or for or under the firm name of _____ have made application for a license to act as a real estate salesman ()/associate broker ()/or real estate broker () Non-Resident, within the State of Virginia, in accordance with the provisions of Chapter 18, Title 54, Code of Virginia, 1950.

WHEREAS, under the provisions of said Chapter, it is necessary to file in the Executive Office, Richmond, Virginia, of the Virginia Real Estate Commission, with its Secretary, a consent that suits and actions may be commenced and prosecuted against the subscriber(s) hereto in any of the courts of record of the State of Virginia, by the service of any process or pleading authorized by the laws of said State of Virginia, on the Secretary of the Virginia Real Estate Commission, the service of such process and pleading on such Secretary to be taken and held in all courts legal and valid as if made on the subscriber(s) hereto within said State, and that such consent shall be irrevocable;

NOW, THEREFORE, I _____ the above-named applicant for license privilege as salesman ()/associate broker ()/or broker () as aforesaid, hereby execute and file with the Secretary of the Virginia Real Estate Commission my/our irrevocable consent that suits and actions may be commenced against the subscriber(s) either individually, or as co-partners or members of said firm or partnership in any of the courts of record of the said State of Virginia, by the service of any process or pleading authorized by the laws of the said State of Virginia, on the Secretary of the Virginia Real Estate Commission, and it is hereby stipulated and agreed that such service of such process or pleading on said Secretary shall be taken and held in all courts to be as valid and binding as if due service had been made upon the subscriber(s) hereto personally within the State of Virginia.

Signature of applicant _____

Legal Residence Address: _____
Number/Street City/State Zip

BE IT REMEMBERED, that on this _____ day of _____, 19____, before

me the subscriber, personally appeared _____ who is known to me to be the person named in and who signed the foregoing instrument, and who acknowledged that he/she signed the same as his/her voluntary act and deed for the uses and purposes therein expressed.

STATE OF: _____

CITY/COUNTY OF: _____

(Notary Public)

My Commission Expires _____

Notary Seal if outside Virginia

NOTICE (THIS FORM MUST BE COMPLETED)

G. I hereby authorize _____ to apply for a license as a real estate salesperson to be employed by _____ and to do whatever is necessary to obtain such a license, and I hereby assume joint responsibility with salesperson applicant.

In my opinion, the applicant has a good reputation for honesty, integrity and fair dealing and I do unreservedly recommend that a salesperson license be granted to the aforementioned applicant as a person worthy of confidence.

I have read Virginia Code Section 54-733; Sec. 3.1 of the Regulations of the Virginia Real Estate Board. I do hereby certify that I maintain a place of business in Virginia in accordance with Virginia Code Section 54-733; that my place of business is located in an office or headquarters where I conspicuously display my license and the license of my employees and or from which I or my employees regularly transact the real estate business and where I and my employees can receive business calls and direct business calls to be made. My place of business is properly identified in accordance with the requirements of Sec. 3.1.4 of the Regulations of the Virginia Real Estate Board.

I, _____ (Print/Type Broker's Name), the undersigned, a licensed Real Estate Broker in the Commonwealth of Virginia, being duly sworn according to law, depose and say that the statements made and the answers to questions set forth above are true to the best of my knowledge. I INTEND TO EMPLOY THE APPLICANT WHEN QUALIFIED FOR LICENSE.

Signature of Employing Broker _____
STATE OF _____
Sworn and subscribed to before me at _____ City/County this _____ day of _____, 19____
My Commission Expires _____ Notary Public
Seal required if outside Virginia.

NOTE: THIS FORM IS NOT TO BE USED FOR APPLICANTS WHO HAVE NEVER OBTAINED AN ORIGINAL LICENSE!

BEFORE MAILING THIS APPLICATION PLEASE READ

- 1. At the time you activate your license, the Recovery Act Fee is due. If you are not sure it was recently paid, please call the Board.
- 2. If your license has been inactive 3 years or more, you must meet current education requirements (Section 2.1.2). Evidence of completion of Principles of Real Estate must be sent to our office. If you attended a college or community college, please order an official transcript with seal sent directly from the school to the Virginia Real Estate Board. Please note on this form that the transcript is being sent. If you attended a proprietor or public school, you must attach to this form the original completion certificate or a notarized copy of it.

NO FEE

THE VIRGINIA REAL ESTATE COMMISSION

REPLY: ATTN: CC-46

3600 West Broad Street
Richmond, Virginia 23230
Toll Free 1-800-552-3016

APPLICATION TO ACTIVATE INACTIVE BROKER LICENSE

***** MUST ATTACH COPY OF INACTIVE STATUS CARD *****

NOTE: Before answering questions, READ CAREFULLY. Answers are to be typewritten or printed.

Social Security Number _____

Place of Birth _____

Date of Birth _____
(Mo.) (Day) (Year)

Miss
Mrs.

1. Legal name of applicant Mr. _____
(First) (Middle) (Last)

2. Current home address _____
(Number & Street) (City/State/Zip) (Phone)

3. Give name of firm, partnership, association or corporation applicant is to be licensed by as broker. (If applying as individual, so state.) _____

4. Give address of main office _____
(Number & Street) (City/State/Zip) (Phone)

5. If not applying as an individual, this application MUST BE ACCOMPANIED BY EITHER A C-1, C-2, C-3 or an Associate Broker Application.

6. Has any complaint been filed against you with this Commission or that of any other state or the District of Columbia during the past five years? Yes or No? _____
If "Yes" give full particulars on separate sheet of paper.

7. Are you now a party, either complainant or defendant, in any litigation involving a real estate transaction with which you were connected as a real estate broker or salesman? Yes or No? _____

8. Are there any judgments or garnishments now outstanding against you? Yes or No? _____

9. Have you been convicted, within the past five years, in a court of competent jurisdiction of this or any other state, or of the District of Columbia, or of the United States, of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, bribery, burglary, robbery, a felony involving personal injury to a victim, or other like offense or offenses, or pleading guilty or nolo contendere to any such offenses, or having been found guilty of a violation of Chapter 5, Title 36, Virginia Fair Housing Law, as provided in Virginia Code Section 36-95.2, there being no appeal pending therefrom or the time therefor having elapsed? Yes or No? _____

10. State if you have ever been convicted of any criminal offense other than a minor traffic violation, or if there is any such charge now pending against you, or any member or officer of your firm, partnership or corporation: Yes or No? _____ If "Yes", give full particulars on separate sheet of paper. Statement not needed if already on file.

11. Have you ever been refused a real estate license in any state? Yes or No? _____
If "Yes", which state(s)? _____

12. Are you now licensed in any state as a broker or salesman? Yes or No? _____ If

"Yes", which state(s) _____
Current Certification of Licensure from EACH state where you are or ever have been licensed is required before the Virginia license will be issued.

13. Name and address as last actively licensed _____

14. Give position to be held by applicant _____
See Item 5.

STATE OF _____

The applicant being duly sworn according to law, deposes and says that the answers on this application are true to the best of his/her knowledge and belief and that the information in this application is given for the purpose of being issued the license applied for. He/she thoroughly understands that after the license applied for has been issued, if the information contained in this application is false, such license may be revoked.

Signature of Applicant _____

Sworn and subscribed to before me at _____ this _____ day of _____ 19 _____

My commission expires _____
Notary Public

BEFORE MAILING THIS APPLICATION PLEASE READ

1. At the time you activate your license, the Recovery Act Fee is due. If you are not sure it was recently paid, please call the Commission.
2. If your license has been inactive 3 years or more, please call the Commission concerning meeting current education requirements (Section 11.1), before submitting this application

10/83

COMPLETE ON REVERSE SIDE

Introduction

ACT National Real Estate Examination Services

Candidate Information Booklet

The ACT Real Estate Examination Services program was opened in 1977 in response to requests by states for professionally prepared licensure examinations for salespersons and brokers which accurately reflected knowledge of current laws and practices in the field of real estate. The examinations were developed with the express goal of presenting the examinees with realistic situations through which they could use their knowledge to demonstrate their mastery of the elements necessary to become real estate licensees.

The real estate tests are developed through a combined effort of real estate experts and testing professionals. The questions developed for the real estate examinations are written by real estate experts who are real estate practitioners and educators. After the questions are written, they are reviewed by experts in the fields of both real estate and testing to ensure that the questions are accurate in their content, as well as representative of good question writing procedures.

Representatives from states participating in the ACT Real Estate Examination Services program review the questions in the examinations to be certain that the content of the questions is accurate and relevant to the real estate practices in their own states. Finally, all questions are revised and updated on a continual basis so that they reflect the current laws and practices of the changing real estate field.

The Real Estate Examination Services program includes the development of both National Real Estate Examinations for brokers and salespersons and state real estate examinations for brokers and salespersons. The National Real Estate Examinations are designed to measure the knowledge and skills relevant and common to virtually all states. Descriptions of the National Examinations are provided later in this booklet.

In general, applicants seeking licensure in a state using the National Examinations will also take an examination which includes questions covering the real estate laws of that particular state. These are the state real estate examinations. Some of the states using the ACT National Examinations have elected to prepare their own state examinations while others use state examinations prepared by ACT. The state examinations that are developed by ACT as part of the Real Estate Examination Services program are similar to the National Examinations in the format and question types used. Each state examination is intended to test those aspects of real estate law specific to that state. Since real estate laws differ somewhat among states, the state examinations are unique to the particular state for which they are developed. To help ensure the appropriateness of the state examinations prepared by ACT, the questions are written principally by real estate professionals in those states. The questions are reviewed by the state licensing agencies to ensure their validity.

All of the tests developed by ACT for the Real Estate Examination Services program contain four-choice multiple-choice questions. Various formats used for these types of test questions can be found on pages 2-3. These types of questions allow the examinee to demonstrate knowledge in a broad range of topics. Although different forms of the National Real Estate Examinations will be administered, all cover exactly the same scope of content; the topics covered in the test are listed in the descriptions on page 4. The state examinations prepared by ACT also have many different versions, and, like the National Real Estate Examinations, cover the same scope of content dictated by the state for which they were developed. Content outlines for state examinations are available from the licensing authority within each state or can be located in your ACT state Application Folder.



ACT.

Description of the Examinations

The National Salesperson and Broker Examinations each contain 100 multiple-choice questions, and each question has four alternative responses. To answer a multiple-choice question, you must choose one answer out of the choices given as the correct answer to the question asked. The questions are designed to measure your ability to understand and apply the principles of real estate given in the content outline of the examinations on page 4 of this booklet. Since these examinations are developed with the express purpose of presenting exams in line with realistic situations that arise in real estate practice, many test questions contain situational contexts which will require you to apply your knowledge in order to answer the question correctly.

Two types of multiple-choice question formats are used in the National Examinations. These formats, with examples, are described below.

Format 1

In this format, a question or an incomplete statement is followed by four possible answer choices or completions. The following four questions are examples of this format.

- The Baldis apply for a \$30,000 loan to buy a grocery store. Is this transaction covered by Regulation Z?
 - A. No, because only transactions of \$25,000 or less are covered.
 - B. No, because business loans are not covered.
 - C. Yes, because all real estate credit transactions are covered.
 - D. Yes, because the purchase of commercial property by individuals, but not firms, is covered.

(The correct answer to Question 1 is B. Response A is incorrect because the \$25,000 maximum applies only to credit transactions on personal, family, household, or agricultural uses. Responses C and D are incorrect because commercial loans are not covered by Regulation Z.)

- In 1980, restaurants in one city produced annual net incomes in the proportions shown below.



If all of the city's restaurants were appraised using an 11 percent capitalization rate, what proportion of the city's restaurants were valued in the \$181,827 to \$190,909 price range?

- A. 16%
- B. 17%
- C. 18%
- D. 49%

(The correct answer to this question is A. By applying the 11 percent capitalization rate to the various incomes shown in the chart, you will discover that only the restaurants in the annual net income range of \$20,001-\$21,000 were valued in the \$181,827 to \$190,909 price range. The chart clearly shows that restaurants in the annual net income range of \$20,001-\$21,000 comprise 16% of the restaurants in this city.)

- Functional obsolescence in a single-family home would most likely be caused by:
 - A. space heaters used as the sole heating source.
 - B. a change in zoning which allows an industrial plant to be built next door.
 - C. a leaky roof.
 - D. a weak foundation caused by termite damage.

(The answer to Question 3 is A. Response B describes a loss in value that is attributable to economic obsolescence, since the cause is outside the property itself. Responses C and D are problems that occur as a result of deterioration, not obsolescence, and are, therefore, incorrect.)

- All of the following are activities of urban planning boards EXCEPT:
 - A. preparing assessed valuations of properties.
 - B. modifying zoning regulations.
 - C. controlling the development of land.
 - D. giving advice on traffic facilities.

(The correct answer to Question 4 is A. Planning boards regulate the use and development of property. As a result, they regulate zoning (B), development of land (C), and traffic facilities (D). Assessed valuations (A) are prepared by assessors' offices, not planning boards.)

- Which of the following is the most appropriate order of steps that a property manager should usually follow in seeking tenants for a residential apartment building?
 - I. Determine the means of promotion or the appropriate advertising media to be used
 - II. Identify the potential market of renters for the property
 - III. Evaluate the property and compare it to competing properties

- A. I, II, III
- B. II, III, I
- C. III, I, II
- D. III, II, I

(All three steps are part of the process of seeking tenants. However, response D is the correct ordering of the steps because a property manager should first evaluate the property's assets to find out what the current demand is for that kind of property. Then, the property manager should identify who the potential renters are and direct the advertising at that market.)

- What do the following people have in common?
 - I. A person who has received the right-of-way to cross adjoining land owned by a corporation
 - II. A person who has received permission to drive across a neighbor's farm to get to a highway
 - III. A residential homeowner who shares a driveway with a neighboring property owner

- A. They all have a leasehold estate in land.
- B. They all have easements appurtenant.
- C. They all have encroachments.
- D. They all have restrictions.

(Since all three persons hold a right in another's land that attaches to the owner's land, the correct answer is B. No other choice adequately characterizes all three examples.)

You should notice that each of the preceding examples, although similar in format, asks you to do something different to answer the question. Question 1 asks you to select the response containing the best option or combination of options that answers the question most adequately. Question 2 asks you to order the options given in the chronological order most appropriate to the context given in the question. Question 3 asks you to choose the response that best describes what the different options have in common.

You should notice that each of the preceding examples, although similar in format, asks you to do something different. Question 1 asks you to apply knowledge to a situation specified in the question. Question 2 asks you to select the correct answer. Question 3 asks you to complete the statement by choosing a cause of an action or event. Question 4 asks you to complete the statement by choosing the exception or the response that is not like all of the others.

Format 2

In this format, a question or incomplete statement is followed by several options labeled with Roman numerals. These are followed by the four answer choices. The following three questions are examples of this format.

- Which of the following written documents is/are necessary for a mortgage loan to be enforceable?
 - I. A waiver of the right of redemption that sets forth what steps may be taken if the borrower defaults
 - II. The borrower's promise to pay the mortgage
 - III. The borrower's pledge of the property to the mortgagee as security for the debt

- A. I only
- B. II only
- C. II and III only
- D. I, II, and III

(The correct answer to Question 1 is C. Option I is incorrect because a waiver of the right of redemption is not necessary for a mortgage loan. Option II is correct because the borrower must give a pledge that creates personal liability for payment. Option III is also correct since there must be a lien on the property as security for the debt. Both II and III must be present for the mortgage to be enforceable; thus, response C is correct.)

Content Outline of the National Examinations

Both the National Salesperson and Broker Examinations are based upon four major content areas. Although the topics included in each of the major content areas are the same for the Salesperson and Broker Examinations, the emphasis devoted to the content areas differs in the two examinations.

Each of the content areas is briefly described below and is followed by an outline of the topics it includes. In addition, the approximate percentage of questions devoted to each in the Salesperson and Broker Examinations is indicated for each major content area. Both the National Salesperson Examination and the National Broker Examination are composed of 100 questions. Approximately 10% of the questions in each examination require mathematical calculations. Figures shown in this booklet and in the examinations are not necessarily drawn to scale and are assumed to lie in a plane unless otherwise stated.

I. Property Ownership, Transfer, and Use

Salesperson Examination—36%
Broker Examination—25%

- A. Nature of real property
 - 1. Definitional elements of types of property
 - 2. Methods of legal description
- B. Parties dealing with interests in real property
 - 1. Capacity: insane and incompetent persons, minors
 - 2. Individuals
 - 3. Corporations
 - 4. Partnerships
- C. Land titles and interests in real property
 - 1. Fee simple, ownership in severalty
 - 2. Life estate, tenancy in common, tenancy by the entirety
 - 3. Leasehold interests
- D. Special interests relating to real property
 - 1. Easements
 - 2. Mortgages and mortgage clauses
- E. Special relationships between persons holding interests in land
 - 1. Fixtures
 - 2. Priorities of liens
 - 3. Encroachments
 - 4. Restrictions
 - 5. Mechanic's liens
 - 6. Attachment and transfer of real estate
- F. Acquisition and transfer of real estate
 - 1. Contracts and agreements
 - a. Characteristics of enforceable real estate
 - b. Elements of property descriptions
 - c. Purchase price
 - d. Standard printed clauses
 - 2. Options
 - 3. Deeds
 - 4. Adverse possession
 - 5. Court action

- G. Public land use control
 - 1. Planning and zoning
 - 2. Property taxation
 - 3. Eminent domain
 - 4. Water rights
 - 5. Health and safety codes in building

II. Brokerage and Laws of Agency

Salesperson Examination—30%
Broker Examination—30%

- A. Real estate agency
 - 1. Nature of distinctions between types of agents
 - 2. Creation of agency relationships
 - 3. Duties of agent toward principal
 - 4. Duties of agent toward third parties
 - 5. Duties enforced by licensing authorities
 - 6. Rights of agent in relation to principal(s)
 - 7. Termination of agency
- B. Federal fair housing laws
- C. Federal Real Estate Settlement Procedures Act
- D. Property management
 - 1. Management contracts
 - 2. Rentals and leases
 - 3. Repairs and maintenance

III. Valuation and Economics

Salesperson Examination—17%
Broker Examination—25%

- A. Concepts and purposes of appraisal
- B. Appraisal techniques
- C. Depreciation
- D. Principles of real property value
- E. The appraisal process
- F. Economic trends
- G. Neighborhood analysis
- H. Site analysis and valuation
- I. Gross rent multiplier
- J. Principles of capitalization
- K. Market data approach
- L. The appraisal report
- M. Real estate economics and trends in land use

IV. Finance

Salesperson Examination—17%
Broker Examination—20%

- A. Mortgage lending agencies
- B. Government mortgage institutions
- C. Mathematics of financial practice
- D. Federal truth-in-lending legislation
- E. Principles of finance

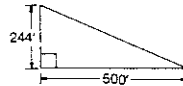
Sample Questions

The following questions illustrate the questions used in the National Salesperson and Broker Examinations. Above each question is a brief description of the topics being tested; the topics refer to the content outline on page 4 of this booklet. These sample questions do not represent the full range of content or difficulty levels contained in the examinations. They are intended to help you become familiar with the types and formats of questions described on pages 2-3. Read each question and decide which answer is best. You may then check your answers with the answer key that follows question 10.

Additional sample questions are available in the Sample National Real Estate Examination. The Sample National Examination may be used as a practice exercise to help you become familiar with the types of questions you will encounter on the National Examinations. Please note, however, that none of the questions in this booklet or in the Sample National Examination will appear on the forms of the National Examinations actually administered to examination candidates.

Nature of Real Property

- 1. Baird bought an industrial lot shaped as in the figure shown below. If Baird buys a lot of the same size and shape next to the first lot, approximately how many total acres will be in the two lots combined?



- A. 2.8
- B. 3.2
- C. 5.6
- D. 7.0

Contracts and Agreements

- 2. What do the following examples have in common?
 - I. Carr gains title to Dole's property by adverse possession.
 - II. Howe's property is sold at a foreclosure sale.
 - III. A court-ordered partition sale of property owned by Baird and Spence is held.
- F. They are all examples of adverse possession.
- G. They are all examples of the transfer of title by sale.
- H. They are all examples of the involuntary transfer of title.
- J. They will all require the use of a quit claim deed to transfer title.

Real Estate Agency

- 3. In general, a broker who receives earnest money deposits is required to do all of the following EXCEPT:
 - A. allow the state to conduct an audit of the broker's trust account at any time.
 - B. accurately account for all earnest money deposits placed in the broker's personal bank accounts.
 - C. maintain a special account at a bank to be used only for such deposits.
 - D. keep any promissory notes uncashed at the buyer's request as long as the seller is informed of this in writing when the offer is presented.

Eminent Domain

- 4. Baird's motorcycle racetrack has been condemned by the city so that the land can be used to build a better approach to the municipal hospital's emergency entrance. Which of the following powers is the city exercising?
 - F. Power of attorney
 - G. Police power
 - H. Eminent domain
 - J. Escheat

Principles of Capitalization

- 5. An investor is considering the purchase of a shopping center. An estimate of the value of the real property should be:
 - A. based on the capitalization of projected future net income.
 - B. based on the depreciated cost of improvements plus the land value.
 - C. proportional to the location of the building.
 - D. inversely proportional to the property's remaining physical life.

Gross Rent Multiplier

- 6. For which of the following reasons is the gross rent multiplier a relatively INEFFECTIVE appraisal method?
 - F. It makes no allowances for vacancies.
 - G. It is sometimes based on estimated rents.
 - H. It does not consider expenses.
 - J. All of the above

Guidelines for Taking the Real Estate Examinations

- Answer every question. There is no penalty for guessing, so use any clues that you have in choosing an answer.
- When you are unsure of the correct answer to a question, first eliminate every wrong answer you can. Each wrong answer eliminated improves your chances of selecting the correct answer.
- Do not spend too much time on any one question. If a question is too hard for you, choose a reasonable answer and go on to the next question. Work quickly but carefully.

Please read the following guidelines carefully. They are designed to help you do your best on the real estate examinations.

- Listen closely to all directions. Do not hesitate to ask questions if you do not understand what you are to do.
- Be very precise in marking your answer sheet. Be sure that you blacken the appropriate ovals and that you completely erase any incorrect marks.
- Your responses **must be marked on the answer sheet** if you are to receive credit for them.
- Keep your answer sheet near your test booklet so you can mark answers quickly without moving either the booklet or the answer sheet.
- Read each question carefully. Note such qualifying words in the questions as NOT, EXCEPT, MOST, LEAST, and GREATEST. They are often crucial in determining the correct answer.

Federal Real Estate Settlement Procedures Act

- The Real Estate Settlement Procedures Act requires that on a residential first mortgage loan:
 - settlement costs be disclosed if a federally regulated lender is involved.
 - the FHA pay legal fees for anyone who cannot afford to hire a lawyer at closing.
 - the VA guarantee a mortgage loan for a property larger than 5 acres.
 - no acceleration clause be included in a mortgage loan on a property larger than 5 acres.

Answer Key	
1. A	6. J
2. H	7. A
3. B	8. G
4. H	9. B
5. A	10. F

Government Mortgage Institutions

- Carr used her VA guarantee to purchase a home. Later Carr sold the home, paid off the mortgage, and made an offer on another, more expensive home. Which statement about the financing of this second home is true?
 - Carr may use a full, new VA guarantee to finance the home because she has repaid the first loan.
 - Carr must wait to use a VA-guaranteed loan because she bought and sold the first house within a five-year period.
 - Carr may use only one half of her VA entitlement because VA loans on second homes are guaranteed for one half of the original entitlement.
 - Carr may not use a VA-guaranteed loan because they are available only for mortgage loans on first homes.

Mathematics of Financial Practice

- Dole borrowed \$12,000 and gave the lender a straight note secured by a mortgage against the home. Dole made monthly payments of interest computed on a 7 percent annual rate for the full term of the note. The total interest payments were \$2,100. The term of the note was for how many months?
 - 27
 - 30
 - 33
 - 36

Federal Fair Housing

- A salesperson deliberately shows a religious buyer homes in only one subdivision where many people of the buyer's faith live. Has the salesperson violated any law?
 - Yes, because a salesperson must show a prospective buyer homes in at least three different areas.
 - Yes, because a salesperson cannot discriminate on the basis of religion when showing property to a buyer.
 - No, because the salesperson's broker is responsible for any violations of law.
 - No, because there was no intent to discriminate on the basis of race or national origin.

Examination Administration Procedures

If ACT provides examination administration services, including registration, test center supervision, and examination scoring to the state in which you are seeking licensure, you should read the following section. If you are unsure of whether ACT provides these services in your state, please consult the state licensing agency.

Eligibility for the Examinations

Eligibility requirements for real estate licensing examinations vary from state to state. Before you apply for the examination, consult your state Application Folder for information about qualifications and/or experience necessary for the real estate examinations in your jurisdiction.

Applying for the Examinations

Application materials may be obtained from the real estate licensing agency in your state or, in many states, from approved real estate schools. Please review all application materials carefully before you begin completing the application form. Incorrect or incomplete materials will be returned unprocessed.

Special Testing

ACT and your real estate licensing agency recognize their obligation to make the real estate examinations equally accessible to applicants with physical or mental

handicaps or disabilities. Reasonable accommodation for specific handicaps will be made whenever necessary and possible. However, it is your responsibility to advise ACT of the need for special accommodation or procedures at the time you apply to take the examination. Medical documentation of any handicap is required, and special accommodations may be refused when the applicant fails to provide adequate notice of medical justification.

In states in which the examination is administered by ACT on Saturdays, persons who cannot take the examination on Saturday for religious reasons will be accommodated on a non-Saturday date. Such applicants must request to take the test on an alternate day for religious reasons at the time they submit their application materials. (See your state Application Folder for further information.)

Test Centers

The number of testing sites varies from state to state. If your state offers several testing sites, every effort will be made to assign you to the test center that you select.

Test Dates

Test dates and the number of times the examination is offered during the year vary from state to state. Check

your state Application Folder for the dates on which the examination is offered in the state in which you wish to apply.

Application Guidelines and Procedures

Application materials must be postmarked no later than the published application deadline for the test date you select (see your state Application Folder for the test dates and deadlines for your state). Application materials postmarked after the deadline will not be accepted for that particular test date.

There are no exceptions to the deadline. For some states, application materials postmarked after the deadline date, but before the deadline for the next scheduled examination, will be processed for the next examination. For other states, procedures require the return of late materials to the applicant. If your state has this requirement, it will be explained in your state Application Folder.

Registration is also possible in some states through a "late registration" system. This system allows you, for an additional fee, to send registration materials to ACT after the normal postmark deadline. This system is described in your state Application Folder if it is available in your state.

Walk-in testing is available in some states. Walk-in testing allows you to take the test without first preregistering. Walk-in testing entails the payment of an additional fee for this special service. Consult your state Application Folder for information regarding the availability of walk-in testing in your state.

Your Admission Ticket

Within three weeks after the application deadline, you will receive a Test Center Admission Ticket which will indicate the test center location. If you preregistered for the examination, **you must bring your Admission Ticket with you to your assigned test center in order to be admitted.**

If you do not receive your Admission Ticket at least one week before the test date, or if you encounter other problems during the application process (lost Admission Ticket, questions about admission), call the telephone number listed in your state Application Folder.

Change of Test Center

If, after mailing your application materials, you have a legitimate reason to change test centers, you may request a change **only** after you receive your Test Center Admission Ticket. Test center changes are made (if time and space permit) **only after** all qualified applicants have been assigned to a test center.

To request a test center change, call the telephone number or write to the address listed in your state Application Folder.

Makeup Testing

There is no provision for makeup testing. If you are unable to take the examination for which you applied, you must reapply for a later examination or engage in walk-in testing if walk-in testing is available in your state. For information regarding walk-in testing, consult your state Application Folder.

Admission and Identification on Test Day

The test center supervisor must positively identify each applicant before admission to the test center. When you report on the test day, you must present proper identification that establishes positive proof of your identity. This identification should be in the form of a driver's license, school identification card, or other **official identification that bears your photograph and signature.**

Some states may require other documents for admission, such as a separate identification card or a school transcript. Be sure to read your state Application Folder carefully and to bring all necessary documentation when you report to the test center.

The supervisor will inspect your Admission Ticket and, if appropriate, any additional documentation you were instructed to bring. If identification is questionable, you may be required to complete additional forms. You will not be admitted for testing without all required identification and documentation.

Test Center Regulations

Each preregistered applicant must submit an Admission Ticket to be admitted to the test center.

Strict security regulations will be observed at all test centers in order to ensure uniform testing conditions and procedures for all applicants.

In most states, calculators are permitted in the testing room. Check your state Application Folder or ask the licensing agency in your state to be certain that calculators are permitted.

You will be asked to provide your Social Security number on your answer sheet when you take the examination. Disclosure of your Social Security number is optional, but you are encouraged to provide it. The number is used to ensure identification, accessibility, and accuracy of your examination records. Please make sure that you have your correct Social Security number when you report to the test center.

Applicants are not permitted to take books, notes, or similar aids into the examination room. Applicants are not permitted to duplicate or record, by copying, photographing, or any other means, any part of the real estate examinations.

No applicants will be admitted to the testing room after testing has begun.

If you are unable to continue the examination because of illness, you should return the test booklet and the answer sheet to the supervisor, who will mark the answer sheet VOID and indicate on the Irregularity Report that the answer sheet is not to be scored. No special testing arrangements can be made for an applicant in this situation. To apply for a subsequent examination, you must complete all new materials and submit the appropriate fee.

Examinees who give or receive assistance of any kind may have their answer sheets voided.

Score Reports

Score reports will be mailed to examinees via first class mail approximately two weeks after each test date. Your score will also be reported to your state licensing agency, and a copy will be kept on file at ACT.

Examination results will not, under any circumstances, be given over the telephone.

Score Averaging

It is important to keep in mind that your total score on the National portion is not the average of the subscores provided for each of the four content areas. This is because some content areas contain larger numbers of questions than others. Your total percentage score for either the National portion or the State portion reflects the number of questions that you answered correctly divided by the total number of questions in that portion.

Requests for Duplicate Score Reports

Requests for duplicate score reports must be made in writing within a year of the test date. Your request must include all of the following in order to be processed: Social Security number, date of birth, test date and test center, type of examination (broker or salesperson), and signature. The fee for a duplicate score report is \$3.50; be sure to include a check or money order for this amount with your request for a duplicate score report. This request should be sent to: ACT Real Estate Examination Program, Contract Administration (82), P.O. Box 168, Iowa City, Iowa 52243.

Handscoring

Because of the sophistication of machine scoring techniques and extensive quality control procedures, errors in the scoring of answer sheets are virtually nonexistent. However, applicants may request to have their answer sheets rechecked by handscoring. Requests for handscoring must be made in writing within two months of the test date and must always include the following information: Social Security number, date of birth, test date, type of examination (broker or salesperson), and signature. Send your request to: ACT Real Estate Examination Program, Contract Administration (82), P.O. Box 168, Iowa City, Iowa 52243.

Correspondence

Correspondence and inquiries about policy, research, and test development should be directed to:

ACT Real Estate Examination Services
Test Development Unit
P.O. Box 168
Iowa City, Iowa 52243

Real Estate References

The references provided below are some of the available relevant study materials for the National Salesperson and Broker Examinations. However, they are not necessarily recommended by The American College Testing Program or by state licensing agencies.

Fundamentals of Real Estate Principles and Practices

Case, Frederick E. *Real Estate Brokerage: A System's Approach*. 2nd ed. Englewood Cliffs, N.J.: Prentice-Hall, 1982.

Dasso, Jerome, Alfred A. Ring, and Douglas McFall. *Fundamentals of Real Estate*. Englewood Cliffs, N.J.: Prentice-Hall, 1981.

Ficek, Edmund F., Thomas P. Henderson, and Ross H. Johnson. *Real Estate Principles and Practices*. 3rd ed. Columbus, Ohio: Charles E. Merrill Publishing Co., 1983.

Galaty, Fillmore W., Wellington J. Allaway, and Robert C. Kyle. *Modern Real Estate Practice*. 10th ed. Chicago: Real Estate Education Co., 1985.

Harwood, Bruce. *Real Estate: An Introduction to the Profession*. 3rd ed. Reston, Va.: Reston Publishing Co., 1983.

Harwood, Bruce. *Real Estate Principles*. 3rd ed. Reston, Va.: Reston Publishing Co., 1983.

Ring, Alfred A. and Jerome Dasso. *Real Estate Principles and Practices*. 10th ed. Englewood Cliffs, N.J.: Prentice-Hall, 1985.

Unger, Maurice A. and George R. Karvel. *Real Estate Principles and Practices*. 7th ed. Cincinnati: South-Western Publishing Co., 1983.

Weimer, Arthur M., Homer Hoyt, and George F. Bloom. *Real Estate*. 8th ed. New York: John Wiley & Sons, 1982.

Real Estate Finance

Atteberry, William. *Modern Real Estate Finance*. 3rd ed. Columbus, Ohio: Grid Publishing, 1980.

Beaton, William R. *Real Estate Finance*. 2nd ed. Englewood Cliffs, N.J.: Prentice-Hall, 1982.

Dasso, Jerome and Gerald Kuhn. *Real Estate Finance*. Englewood Cliffs, N.J.: Prentice-Hall, 1983.

Dennis, Marshall W. *Mortgage Lending Fundamentals and Practices*. 2nd ed. Reston, Va.: Reston Publishing Co., 1983.

Johnson, Ross H. and Thomas P. Henderson. *Real Estate Finance*. Columbus, Ohio: Charles E. Merrill Publishing Co., 1985.

Sirota, David. *Essentials of Real Estate Finance*. 3rd ed. Chicago: Real Estate Education Co., 1980.

Wiedemer, John P. *Real Estate Finance*. 4th ed. Reston, Va.: Reston Publishing Co., 1983.

Real Estate Appraisal

American Institute of Real Estate Appraisers. *The Appraisal of Real Estate*. 8th ed. Chicago: American Institute of Real Estate Appraisers, 1983.

Bloom, George F. and Henry S. Harrison. *Appraising the Single Family Residence*. Chicago: American Institute of Real Estate Appraisers, 1978.

Unger, Maurice A. *Elements of Real Estate Appraisal*. New York: John Wiley & Sons, 1982.

Ventolo, William L., Jr., and Martha R. Williams. *Fundamentals of Real Estate Appraisal*. 3rd ed. Chicago: Real Estate Education Co., 1983.

Real Estate Management

Downs, James, Jr. *Principles of Real Estate Management*. 12th ed. Chicago: Institute of Real Estate Management, 1980.

Fulmer, Robert M. and Steven C. Franklin. *Supervision: Principles of Professional Management*. 2nd ed. New York: Macmillan, 1982.

McMichael, Stanley L. and Paul T. O'Keefe. *Leases: Percentage, Short and Long Term*. 6th ed. Englewood Cliffs, N.J.: Prentice-Hall, 1974.

Realtors' National Marketing Institute. *Real Estate Office Management: People, Functions, Systems*. 2nd printing (revised). Chicago: Author, 1985.

Real Estate Law

Gibson, Frank, James Karp, and Elliot Klayman. *Real Estate Law*. Chicago: Real Estate Education Co., 1983.

Kratovil, Robert and Raymond J. Werner. *Real Estate Law*. 8th ed. Englewood Cliffs, N.J.: Prentice-Hall, 1983.

Lusk, Harold F. and William B. French. *Law of the Real Estate Business*. 5th ed. Homewood, Ill.: Richard D. Irwin, 1984.

Siedel, George J. III. *Real Estate Law*. St. Paul, Minn.: West Publishing Co., 1979.

Real Estate Mathematics

Gaines, George, Jr., and David S. Coleman. *Real Estate Math: Explanations, Problems, and Solutions*. 4th ed. Chicago: Real Estate Education Co., 1985.

Ventolo, William L., Jr., Lynette K. Marks, and Wellington J. Allaway. *Mastering Real Estate Mathematics*. 3rd ed. Chicago: Real Estate Education Co., 1979.

Other

Reilly, John W. *The Language of Real Estate*. 2nd ed. Chicago: Real Estate Education Co., 1982.

Purchasing the Sample National Real Estate Salesperson Examination

Using the Sample Examination

The sample examination is composed of questions similar to those appearing in the ACT National Real Estate Salesperson Examinations. The sample examination is comparable in format and content to the forms of the examination being administered as licensure examinations. There is only one form of the sample examination. The sample examination is intended for use in practicing to take an examination of this type prior to taking the licensure examination. The questions in the sample examination will not appear in forms of the examination actually administered to candidates.

Ordering the Sample Examination

- Only written orders will be accepted.
- There is only one form of the sample examination.
- Written orders should be directed to: Real Estate Test Development (45), The American College Testing Program, P.O. Box 168, Iowa City, Iowa 52243.
- Checks should be made payable to ACT.
- The following prices include the cost of postage:
Order for one or two booklets \$4.50 per copy
Order for three or more booklets \$3.50 per copy
- Orders received without payment will be returned.
- No duplication of the sample examination is allowed. The examination has been copyrighted by The American College Testing Program, Inc.

Complete this form, detach, and mail to the address shown on the bottom of the form.

Sample National Real Estate Salesperson Examination

Please send:

_____ copies @ \$4.50 if 1 or 2 copies ordered \$ _____

_____ copies @ \$3.50 if 3 or more copies ordered \$ _____

Total enclosed: \$ _____

Make check or money order payable to ACT. Do not send cash. Orders received without payment will be returned.

Send to:

Name _____

Address _____

City, State, ZIP Code _____

Real Estate Test Development (45)
The American College Testing Program
P.O. Box 168
Iowa City, Iowa 52243

Final Regulations

Application Folder Virginia Real Estate Examinations July 1986-June 1987



IMPORTANT: Make certain you receive *The ACT National Real Estate Candidate Information Booklet* with this folder.

The Virginia Real Estate Licensing Examinations (Broker and Salesperson) are administered by The American College Testing Program (ACT) under the direction of the Virginia Real Estate Board. The examinations are given every month at established test centers. Three different types of registration are available: (1) Standard Registration; (2) Late Registration; and (3) Walk-in Registration. Each is described in detail in this folder. Please read the entire Application Folder carefully before completing your Application Form.

1986-87 TEST DATES AND STANDARD REGISTRATION DEADLINES

Test Dates	Standard Registration Postmark Deadlines
July 26, 1986	July 2, 1986
August 23, 1986	July 25, 1986
September 27, 1986	August 29, 1986
October 25, 1986	September 26, 1986
November 22, 1986	October 24, 1986
December 20, 1986	November 21, 1986
January 24, 1987	December 26, 1986
February 28, 1987	January 30, 1987
March 28, 1987	February 27, 1987
April 25, 1987	March 27, 1987
May 16, 1987	April 17, 1987
June 27, 1987	May 29, 1987

APPLICATION FORM

To apply for the Virginia Real Estate Licensing Examinations, you must complete the Application Form that accompanies this folder. Please type or print neatly on the form and answer each question completely. *Incomplete applications will be returned unprocessed.*

- 1. YOUR NAME:** Print your full last, first, and middle names in the boxes provided. Do not use nicknames or initials.
- 2. ADDRESS:** On Line 1, print your apartment number, suite number, or business name, if applicable. On Line 2, print the address to which the post office will deliver your mail.

Your admission ticket will be mailed to the address you report on the Application Form.
- 3. TEST:** Check the box next to the type of examination you wish to take (Broker or Salesperson). You may take only the test for which you are registered and then only after having completed all other requirements for obtaining a license in Virginia.

- 4. TEST CENTER:** Select the test center you prefer and check the box next to that location. Every effort will be made to assign you to the test center you request.
- 5. SOCIAL SECURITY NUMBER:** Although disclosure is not mandatory, it is most helpful to ensure identification, accessibility, and accuracy of your application, test materials, and test results.
- 6. BIRTHDAY:** Enter the month and day in the boxes provided. For month, use 01 to 12 (January = 01); for day, use 01 to 31.
- 7. REGISTRATION TYPE:** Check the box next to the type of registration you are submitting.
- 8. TEST DATE:** Check the box next to the month in which you wish to test. Please review the test dates and postmark deadlines shown. No refunds will be given to applicants who cannot or do not take the examination on the date for which they are registered.
- 9. TELEPHONE NUMBERS:** In the boxes indicated, print your home and/or office telephone numbers where you can be reached during the day between 8:30 a.m. and 4:30 p.m. Central Time.
- 10. SIGNATURE:** Read carefully the statements below as well as those that precede the signature line; then sign your name as you would a check or business letter and enter the date.

First statement: Refer to Section 54-740 of the Virginia Code and to the Virginia Real Estate Board's regulations before certifying that you have completed the educational requirements. Broker applicants must also complete the experience requirements outlined in Section 22.2 of the Board's regulations prior to making application for licensure.

Second statement: The Virginia Real Estate Board hereby notifies all applicants that the Board will check by computer to ensure that no candidate taking a Virginia Real Estate Examination is currently licensed in Virginia for the type of examination that is being applied for, or is affiliated with a real estate school as an official, instructor, or designee taking the examination for any purpose other than to obtain a license.

TEST FEE

Please do not send cash. Send a personal check or money order in the amount of \$16.50 (\$26.50 for Late Registration) with your Application Form. Checks should be made payable to: ACT Real Estate Examination Services. Application forms accompanied by insufficient payment will be returned unprocessed. If you are absent for the examination or do not pass it, you must submit a new registration form and pay another test fee. Registration forms and fees are not transferable from one test date to another.

MAILING

After you have completed the form and have checked it carefully, mail the form and your check or money order for \$16.50 (\$26.50 for Late Registration) to:

Virginia Real Estate Examination (83)
The American College Testing Program
Application Department
P.O. Box 1009
Iowa City, IA 52243

Standard Registration refers to materials meeting the postmark deadlines as shown on page 1 of this folder. It is best not to mail application materials just before the deadline date because materials are sometimes postmarked a day or two after mailing. Caution: If there is a discrepancy between a metered postmark and an official U.S. Postal Service postmark, the latter will be considered official. Materials delivered by private courier must also arrive by the postmark deadline. If you are using a private courier, please address the package to: Virginia Real Estate Examinations (82), The American College Testing Program, The Tyler Building, 2255 North Dubuque Road, Iowa City, Iowa 52243. Materials received after the postmark deadline will be returned unprocessed. If you have questions after mailing your application form, call ACT's Real Estate Examination Services Application Department at 319/337-1282.

Late Registration refers to those materials which meet the deadlines shown in the Late Registration box. If you are submitting a Late Registration, it must be RECEIVED by ACT by 4:30 p.m. on the deadline date. Materials received after the deadline will be returned unprocessed.

1986-87 TEST DATES AND LATE REGISTRATION DEADLINES

TEST DATES	LATE REGISTRATION DEADLINES (Received at ACT)
July 26, 1986	July 18, 1986
August 23, 1986	August 15, 1986
September 27, 1986	September 19, 1986
October 25, 1986	October 17, 1986
November 22, 1986	November 14, 1986
December 20, 1986	December 12, 1986
January 24, 1987	January 16, 1987
February 28, 1987	February 20, 1987
March 28, 1987	March 20, 1987
April 25, 1987	April 17, 1987
May 16, 1987	May 8, 1987
June 27, 1987	June 19, 1987

ADMISSION TICKET

If you submit a Standard Registration, you will receive your test center admission ticket approximately ten days prior to the test date. If you do not receive your ticket by one week prior to the test date, call ACT's Real Estate Examination Services Application Department (319/337-1282). The reporting time and exact address of the test center will be printed on your admission ticket, which must be presented at the test center. If it is necessary for you to request a change of test center, call the Application Department at the number shown above between 8:30 a.m. and 4:30 p.m. Central Time.

If you submit a Late Registration, you will receive your test center admission ticket during the week of the examination. If you do not receive your ticket by two days (Thursday) before the test date, call ACT's Real Estate Examination Services Application Department (319/337-1282).

SPECIAL TESTING

If you cannot take the examinations on Saturday for religious reasons, please note this in a letter enclosed with your application. ACT will then assign you a non-Saturday test date. If you have a handicap that will require special accommodations at the test center, enclose with your application (a) a letter describing the special arrangements you need and (b) documentation of that need (e.g., a physician's statement).

THE DAY OF THE TEST

Report to the address shown on your admission ticket by 8:30 a.m. **Arrive on time. No one will be admitted after testing begins.**

Test supervisors must be able to verify the identity of each applicant before admission to the test center. Be sure to bring to the test center your admission ticket, as well as one of two acceptable forms of photographic identification: a valid Virginia driver's license (you'll need to show both parts A and B); or a picture ID card issued by the Virginia Division of Motor Vehicles. Candidates without one of these two forms of acceptable photographic identification will not be allowed to test.

Examinees are allowed 4½ hours for the Virginia Real Estate Licensing Examinations. Testing ends at approximately 1:30 p.m.

CALCULATORS

Calculators are permitted in the testing room, provided they do not require electrical outlets, do not have programmed functions, and their operation does not disturb other examinees. Calculators with a memory function are permissible, but calculators that emit a beeping sound or print tape are not allowed. Examinees may not share calculators. Be sure to read your *ACT National Real Estate Candidate Information Booklet* for more details regarding test center regulations.

TEST CONTENT

Both the Virginia Real Estate Salesperson and Broker Licensing Examinations consist of two parts: (1) the National Real Estate Examinations and (2) the Virginia Real Estate Supplement Examinations. **You must pass both parts of the examination at a single administration in order to pass the examination and be eligible for a Virginia real estate license.**

The National Real Estate Examinations consist of 100 multiple-choice questions. Based on an examination outline approved by the Virginia Real Estate Board, the National Examinations test knowledge of property ownership, transfer, and use; brokerage and laws of agency; valuation and economics; and finance. A detailed description of the National Examinations is shown in your *ACT National Real Estate Candidate Information Booklet*.

The Virginia Supplement Salesperson and Broker Examinations deal with topics relating particularly to Virginia laws and regulations and the specific real estate practices followed in Virginia. There are 40 multiple-choice questions on the Salesperson Examination and 50 multiple-choice questions on the Broker Examination. An outline of the topics covered by the Virginia Real Estate Supplement Examinations follows.

Approximate Number of Questions Relating to Topic

Topic Covered	Salesperson	Broker
Licensing Requirements	5	7
Requirements and Prohibitions Governing the Activities of Licensees	20	26
Additional Topics	5	7
Real Estate Prorations		
Real Estate Listing Agreements	5	0
Real Estate Sales Contracts	5	5
Real Estate Settlement Statements	0	5
Total Number of Questions =	40	50

The questions on these examinations are designed to measure your ability to understand and apply the fundamental principles of real estate. There are two general types of questions. The first is based on general information about real estate; the second on the ability to apply fundamental real estate laws, principles, and methods to new problems. Both types of questions require knowledge of real estate laws, regulations, principles, and methods.

WALK-IN TESTING

Walk-in Registration is for applicants who did not preregister (Standard or Late) for a specific test date and test center by sending ACT a completed Application Form and the correct fee prior to the deadline. When considering Walk-in Registration, please keep in mind that your Application Form will be processed after the test date and, as a result, your score report may be delayed by several days.

The Virginia Real Estate Examinations (both Broker and Salesperson) will be administered each month to applicants on a standby basis at all Virginia test centers. Walk-in applicants will be admitted to test only after all preregistered applicants have been admitted. Remaining seats and test materials will be assigned to walk-in applicants on a first-come, first-served basis. Due to seating limitations at the test centers, admission to test is not guaranteed; however, every attempt will be made to accommodate as many candidates as possible.

The following rules apply for walk-in applicants on the day of the test

1. Report to the test center of your choice by 8:00 a.m. No one will be admitted after testing begins.
2. You must complete an application form at the test center or bring a completed form with you to the test center.
3. **The fee for walk-in testing is \$28.50.** The test center supervisor will collect your application and fee, which must be in the form of a personal check or money order made payable to: ACT Real Estate Examination Services. **Cash will not be accepted.** You will not be admitted to test without full payment.
4. You must present positive photographic identification to be admitted to the testing rooms.

The Virginia Real Estate Test Centers are:

T. C. Williams Senior High School (Main Lobby)—except for January 24, 1987 test date
3330 King Street
Alexandria, Virginia
For January 24, 1987 test date only
Francis C. Hammond Junior High School
4646 Seminary Road
Alexandria, Virginia

Virginia Western Community College—South Campus
Duncan Hall, Room 210
3095 Colonial Avenue
Roanoke, Virginia

Thomas Jefferson High School
4100 West Grace Street
Richmond, Virginia

Tidewater Community College
Kempsville, Building D, Room 101
1700 College Crescent
Virginia Beach, Virginia

Thomas Nelson Community College
Moore Hall, Room 158
99 Thomas Nelson Drive
Hampton, Virginia

YOUR SCORE REPORT

If you apply to take the examination by following either the Standard or Late Registration procedures, your score report will be mailed approximately two weeks after the examination. If you do not receive your score report within three weeks following the test date, call the ACT Real Estate Examination Services Application Department at 319/337-1282. Examination results will not under any circumstances be given over the telephone.

If you apply to take the examination by following the walk-in procedures, your score report will be mailed approximately three weeks after the examination.

Keep your score report. If you pass the examination, your score report will be used for license application.

If you fail the examination, your score report will indicate your total percent correct on each of the two portions of the examination. (National—100 questions; State—50 questions for Brokers, 40 questions for Salespersons). Your score report also will show the percent correct on each of the four content areas of the National portion of the examination: Property Ownership, Transfer, and Use; Brokerage and Laws of Agency; Valuation and Economics; and Finance. A detailed description of the National Examinations is shown in your ACT National Real Estate Candidate Information Booklet.

Remember, you must bring one of two acceptable forms of photographic identification with you to the test center in order to test!

Acceptable forms of photographic identification are:

1. a valid Virginia driver's license. (You must show both parts A and B)
2. a picture ID card issued by the Virginia Division of Motor Vehicles.

REAPPLYING TO TAKE THE EXAMINATIONS

If you fail the examination, or if you do not take the examination for which you are scheduled, you may reapply for another examination. To do so, complete new application materials and submit them with the appropriate fee. Each time you apply for an examination, you must fill out new application materials and send the full application fee. There are no refunds or rescheduled examinations for applicants who cannot or do not take the examination for which they are registered.

* * * * *

Title of Regulation: VR 585-01-2. Condominium Regulations.

Statutory Authority: § 55-79.98(a) of the Code of Virginia.

Effective Date: July 15, 1987

Summary:

Amendments to the regulation generally include revisions to the rules for registration application submission, marketing activities, preparation of public offering statement and disclosures therein, and post registration provisions. Provisions on Time-Share Condominiums are added. All amendments are consistent with statutory disclosure requirements and board policy. Approximately 170 condominium developments are registered each year.

VR 585-01-2. Condominium Regulations.

SECTION 14 d

**PART I.
GENERAL.**

14-1 § 1.1. Purpose.

These condominium regulations govern the exercise of powers granted to and the performance of duties imposed upon the Virginia Real Estate Commission Board by the Horizontal Property Act, § 55-79.1 et seq. of the Code of Virginia, and by the Condominium Act, § 55-79.39 et seq. of the Code of Virginia.

14-2 § 1.2. Definitions.

The definitions provided in § 55-79.41 of the Code of Virginia, as they may be supplemented herein, shall apply to these condominium regulations. The corresponding meanings assigned to certain terms by § 55-79.41 of the Code of Virginia shall be applicable in these condominium regulations.

14-3 § 1.3. Explanation of terms.

Each reference in these condominium regulations to a "declarant," "purchaser" and "unit owner" or to the plural of those terms shall be deemed to refer, as appropriate, to the masculine and the feminine, to the singular and the plural and to natural persons and organizations. The term "declarant" shall refer to any successors to the persons referred to in § 55-79.41 who come to stand in the same relation to the condominium as their predecessors in that they assumed rights reserved for the benefit of a declarant [to complete improvements indicated on plats and plans filed with the declaration or application for registration; to convert convertible land in a condominium containing convertible land; to add additional land to an

expandable condominium; to withdraw withdrawable land from a condominium containing withdrawable land; to convert convertible space into two or more units, common elements, or into two or more units and common elements; to maintain sales offices, and management offices; signs advertising the condominium, and models; to use easements through the common elements for the purpose of making improvements within the condominium or within any convertible or additional land; or to appoint or remove any officer of the unit owners' association or board of directors thereof during any period of declarant control that (i) offers to dispose of his or its interest in a condominium unit not previously disposed of, (ii) reserves or succeeds to any special declarant right, or (iii) applies for registration of the condominium. The transfer of successor declarant rights may be accomplished only as set forth in § 55-79.74:3 of the Code of Virginia.]

14-4 § 1.4. Condominiums located outside of Virginia.

A. In any case involving a condominium located outside of Virginia in which the laws or practices of the jurisdiction in which such condominium is located prevent compliance with a provision of these condominium regulations, the Commission board or its subordinate shall prescribe, by order, a substitute provision to be applicable in such case which is as nearly equivalent to the original provision as is reasonable under the circumstances.

B. The words "declaration," "bylaws," "plats" and "plans," when used in these condominium regulations with reference to a condominium located outside of Virginia, shall refer to documents, portions of documents or combinations thereof, by whatever name denominated, which have a content and function identical or substantially equivalent to the content and function of their Virginia counterparts.

C. The words "recording" or "recordation," when used with reference to condominium instruments of a condominium located outside of Virginia, shall refer to a procedure which, in the jurisdiction in which such condominium is located, causes the condominium instruments to become legally effective.

D. These regulations shall apply to a [contract for the disposition of a] condominium [unit] located outside of Virginia only to the extent [necessary and] permissible under the provisions of § 55-79.40 B of the Code of Virginia.

14-5 § 1.5. Condominium advisory committee.

A condominium advisory committee, appointed by the Commission, shall board. may advise the Commission board in the exercise of its powers and the performance of its duties under the Horizontal Property Act and the Condominium Act and shall function as a subordinate of the Commission within the meaning of Virginia Code § 9-6.14.4(g) in such cases as the Commission may, from time to time, direct .

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14-6 § 1.6. ~~Condominium Property registration administrator.~~

A ~~Condominium property registration~~ administrator, employed and designated as such by the Director of the Department of Professional and Occupational Regulation ~~Commerce~~, shall function as a subordinate of the ~~Commission board~~ within the meaning of § 9-6.14.4(g) of the Code of Virginia for the purpose of carrying out the routine daily operations of the ~~Commission board~~ with respect to condominium regulations, including, without limitation, the entry of any orders provided for in these condominium regulations, the issuance of public reports and the administration of oaths and affirmations in connection with investigations or other proceedings. The ~~Condominium~~ administrator shall act as secretary of the condominium advisory committee.

SECTION 15

PART II. APPLICATION FOR REGISTRATION.

15-1 § 2.1. Application for registration.

Application for registration of condominium units shall be filed at the offices of the ~~Commission board~~. The application shall contain all of the documents and information required by the standard application form, of which a specimen is appended as Appendix A to these regulations and made a part hereof.

15-2 § 2.2. Applications not in proper form.

Upon receipt of an application for registration not in proper form, the ~~Commission board~~ shall return the application to the declarant with a statement specifying the deficiencies in its form provided, however, that, if the ~~Commission board~~ has reason to believe that the application may readily be put into proper form it may retain the application and notify the declarant of the steps that must be taken to put the application in proper form.

§ 2.3. *Form of the application; submission of documents.*

The board may establish specific guidelines which establish the form for preparation of [condominium documents the application for registration]. These guidelines shall set forth reasonable requirements [which assure uniformity in disclosures made to prospective purchasers for paper size, binding and organization which assure uniformity in the manner disclosures are made to prospective purchasers.]

15-3 § 2.4. Procedure upon receipt of application for registration.

A. Upon receipt of an application for registration [in proper form and the fee required by § 55-79.89(d) of the Code of Virginia], the ~~Commission board~~ shall issue the notice of filing required by § 55-79.92(a) of the Code of

Virginia and shall conduct an inquiry and investigation [~~a review of the application and supporting documents an inquiry and investigation~~] to determine whether the prerequisites for registration set out in § 55-79.91 of the Code of Virginia and Regulation 16-1 § 3.1 of these regulations have been met. In conducting such inquiry and investigation [~~review inquiry and investigation.~~] the ~~Commission board~~ shall take cognizance of any [~~may rely upon shall take cognizance of any~~] reliable information concerning the declarant or the condominium coming to the ~~Commission's board's~~ attention. [~~However, this does not excuse the declarant's obligation to complete the registration application accurately and truthfully.~~]

B. If any of the prerequisites for registration appear to the ~~Commission board~~ not to have been met, the ~~Commission board~~ may informally advise the declarant of such fact and indicate in detail the nature of the failure to meet the prerequisites.

C. If, by the fiftieth day following the date of issuance of the notice of filing, ~~if the document review conducted by the administrator reveals that~~ the prerequisites for registration have not been met, the ~~Commission board~~ shall issue the correction notification required by § 55-79.92(c) of the Code of Virginia. The correction notification shall include a statement that the declarant may request additional time for correcting the application beyond the ten day period provided for in the notification.

D. A request for an extension of the ~~correction 60-day application~~ period shall be in writing and shall be delivered to the ~~Commission board~~ prior to the expiration of the period being extended. The request shall be for an extension of definite duration. The ~~Commission board~~ may grant in writing a request for an extension of the ~~correction application~~ period and it may limit the extension to a period not longer than is reasonably necessary to permit correction of the application. An additional extension of the ~~correction application~~ period may be obtained, subject to the conditions applicable to the initial request. A request for an extension of the ~~correction application~~ period shall be deemed a consent to delay within the meaning of § 55-79.92(a) of the Code of Virginia.

E. If the prerequisites for registration are not met within the ten day ~~correction application~~ period or a valid extension thereof, the ~~Commission board~~ shall, upon the expiration of such period, enter an order rejecting registration as required by § 55-79.92(c) of the Code of Virginia.

F. The ~~Commission board~~ shall receive and act upon corrections to the application for registration at any time prior to the effective date of an order rejecting registration.

G. At such time as the ~~Commission board~~ affirmatively determines that the prerequisites for registration have been met, the ~~Commission board~~ shall enter an order

registering the condominium units. The order shall designate the form and content of the public offering statement, substituted disclosure document or prospectus to be used and, in the case of application for registration made pursuant to Regulation 20.3(d) § 8.3.D of these regulations shall provide that previous orders designating the form and content of the public offering statement, substituted disclosure document or prospectus to be used are superseded.

[§ 2.5. Application for registration of expandable condominium.

In accordance with the practice contemplated by § 55-79.74(a) of the Code of Virginia, the declarant may register all units for which development rights have been reserved.]

SECTION 16

PART III. REGISTRATION.

16.1 § 3.1. Prerequisites for registration.

The following provisions are prerequisites for registration and are supplementary to the provisions of § 55-79.91 of the Code of Virginia.

(a) 1. The declarant shall own or have the right to acquire an estate in the land constituting or to constitute the condominium which is of at least as great a degree and duration as the estate to be conveyed in the condominium units.

(b) 2. The condominium instruments must be adequate to bring a condominium into existence upon recordation of the said instruments except that the certification requirements of § 55-79.58 of the Code of Virginia need not be complied with as a prerequisite for registration. [*This subsection does not apply to condominium instruments that may be recorded after the condominium has been created.]*

(c) 3. The declarant shall have filed with the Commission board evidence of its ability to complete all proposed improvements on the condominium. Such evidence shall consist of the commitment of an institutional lender to advance construction funds to the declarant and, to the extent that any such commitments will not furnish all the necessary funds, other evidence, satisfactory to the Commission board, of the availability to the declarant of necessary funds. A lender's commitment may be subject to such conditions, including registration of the condominium units and presale requirements as are normal for loans of the type and as to which nothing appears to indicate that the conditions will not be complied with or fulfilled. In the case of a condominium located in Virginia, proposed improvements are uncompleted improvements which the declarant is affirmatively and

unconditionally obligated to complete under §§ 55-79.58 and 55-79.67(al) of the Code of Virginia and applicable provisions of the condominium instruments or which the declarant would be so obligated to complete, if plats and plans filed with the Commission board in accordance with POR 9-2014(a) § 3.2 subsection A of these regulations were recorded. In the case of a condominium located outside of Virginia, " proposed improvements " are all uncompleted improvements which the declarant intends, without condition or limitation, to build or place on the condominium.

(d) 4. The current and planned condominium marketing activities of the declarant shall comply with [§ 59-1-44 § 18.2-216] of the Code of Virginia, Regulations 17.1, 17.3 and 17.4 and §§ 4.1, 4.3 and 4.4 of these regulations .

(e) 5. The declarant shall have filed with the Commission board : (i) a proposed public offering statement which complies with § 55-79.90(a) of the Code of Virginia and Regulations 18-1 §§ 5.1 through 18-25 5.26 and §§ 7.1 through 7.12 of these regulations and, if applicable, § 55-79.94(a) of the Code of Virginia and Regulations 19-1 §§ 6.1 through 19-7 6.7 of these regulations ; (ii) a substituted disclosure document which complies with Regulation 18-26 § 5.25 ; or (iii) a prospectus which complies with 18-27 § 5.26 of these regulations .

16.2 § 3.2. Requirements for plats and plans.

A. Except as provided in subparagraph (e) subsection C hereof, improvements shall be depicted on plats filed with the application for registration exactly as the declarant has depicted or intends to depict them on the recorded plats and "(NOT YET BEGUN)" and "(NOT YET COMPLETED)" labels shall be used with respect to such improvements exactly as the declarant has used or intends to use them on the recorded plats ; provided, however, that this sentence shall not be construed to require the recording of plats identical to the plats filed with the application for registration. [*Copies of plats and plans as recorded by the declarant shall be filed with the board if such plats and plans are different from those filed with the application for registration.]*

B. The requirement of § 55-79.58(b) of the Code of Virginia that plans shall show the location and dimensions of the boundaries of each unit shall be deemed satisfied, in the case of units which are identical (within normal constructions tolerances), by depiction of the location and dimensions of the vertical boundaries and horizontal boundaries, if any, of one such unit. The identifying numbers of all units represented by such depiction shall be indicated. Each structure within which any such units are located shall be depicted so as to indicate the exact location of each such unit within the structure.

C. In the case of a condominium located outside Virginia, certain materials may be filed with the

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application for registration in lieu of plats and plans complying with the provisions of § 55-79.58 of the Code of Virginia. Such materials shall contain, as a minimum, (i) a plat of survey depicting all existing improvements and all improvements which the declarant intends, without condition or limitation to build or place on the condominium and (ii) legally sufficient descriptions of each unit. Any improvements whose completion is subject to conditions or limitations shall be appropriately labeled to indicate that such improvements may not be completed. Unit descriptions may be written or graphic, shall demarcate each unit vertically and, if appropriate, horizontally, and shall indicate each unit's location relative to established points or datum.

D. The plats and plans must bear the [form of the] certification statement required by § 55-79.58(a) and (b) of the Code of Virginia. However, such certification may appear [~~on~~ in] a separate document to be recorded with the plats and plans. As stated in [§ 7-1 B § 3.1.2] of these regulations, the statement need not be executed prior to [registration recordation.

E. The plats and plans filed with the board to satisfy the requirements of § 55-79.58 of the Code of Virginia shall be reduced and the size required for recordation.]

16-3 § 3.3. Exemption from registration of nonresidential condominiums.

The exemption from registration of condominiums in which all units are restricted to nonresidential use provided in § 55-79.87(a) shall not be deemed to apply to any condominium as to which there is a substantial possibility that a unit therein other than a unit owned by the declarant or the unit owners' association will be used as permanent or temporary living quarters or as a site upon which vehicular or other portable living quarters will be placed and occupied. [*Residential use for the purposes of these regulations includes transient occupancy.*]

SECTION 17

PART IV. MARKETING.

17-1 § 4.1. Preregistration offers prohibited.

A. No declarant or individual or entity acting on behalf of the declarant shall offer a condominium unit prior to its registration.

B. No condominium marketing activity shall be deemed an offer unless, by its express terms, it induces, solicits or encourages a prospective purchaser to execute a contract of sale of the condominium unit or lease of a leasehold condominium unit or perform some other act which would create or purport to create a legal or equitable interest in the condominium unit other than a security interest in or a nonbinding reservation of the condominium unit.

17-2 § 4.2. Condominium marketing activities.

Condominium marketing activities shall include every contact for the purpose of promoting disposition of a condominium unit. Such contacts may be personal, by telephone, by mail or by advertisement. A promise, assertion, representation or statement of fact or opinion made in connection with a condominium marketing activity may be oral, written or graphic. *With respect to condominiums located outside of Virginia, the application of these regulations is limited to those condominiums for which contracts are executed in Virginia as required by § 55-79.40 B of the Code of Virginia.*

17-3 § 4.3. Condominium marketing standards.

A. No promise, assertion, representation or statement of fact or opinion in connection with a condominium marketing activity shall be made which is false, inaccurate or misleading by reason of inclusion of an untrue statement of a material fact or omission of a statement of a material fact relative to the actual or intended characteristics, circumstances or features of the condominium or a condominium unit.

B. No promise, assertion, representation or statement of fact or opinion made in connection with a condominium marketing activity shall indicate that an improvement will be built or placed on the condominium unless the improvement is a proposed improvement within the meaning of Regulation 16-1(e) § 3.1 3 of these regulations ; except that, if the condominium is one for which no application for registration has been filed, there shall be no indication that an improvement will be built or placed on the condominium unless the declarant has sufficient financial assets and a bona fide intention to complete the improvement as represented.

C. No promise, assertion, representation or statement of fact or opinion made in connection with a condominium marketing activity and relating to a condominium unit not registered shall, by its express terms, induce, solicit or encourage a prospective purchaser to leave Virginia for the purpose of executing a contract for sale or lease of the condominium unit or performing some other act which would create or purport to create a legal or equitable interest in the condominium unit other than a security interest in or a nonbinding reservation of the condominium unit.

17-4 § 4.4. Offering literature.

A. Offering literature is any written promise, assertion, representation or statement of fact or opinion made in connection with a condominium marketing activity mailed or delivered directly to a specific prospective purchaser, except that information printed in a publication shall not be deemed offering literature solely by virtue of the fact that the publication is mailed or delivered directly to a prospective purchaser.

B. Offering literature mailed or delivered prior to the registration of the condominium which is the subject of the offering literature shall bear a conspicuous legend containing the substance of the following language:

{ / Identification of the condominium / } has not been registered by the Virginia Real Estate Commission Board. A condominium unit may be reserved on a nonbinding reservation agreement, but no contract of sale or lease may be entered into prior to registration.

C. Prior to registration a copy of every item of offering literature other than a personal communication shall be filed with the Commission board prior to its use. A personal communication is a communication directed to a particular prospective purchaser which has not been and is not intended to be directed to any other prospective purchaser.

D. The declarant of a condominium shall provide with the application for registration a narrative description of the promotional plan for the condominium [and shall file examples or samples of promotional literature to be used in its marketing efforts].

E. Offering literature or marketing activities violative of the Virginia Fair Housing Law, § 36-86 et seq. of the Code of Virginia, and the Virginia Condominium Act, § 55-79.52(c) of the Code of Virginia is prohibited.

F. Offering literature shall indicate that the property being offered is [under] the condominium form of ownership. [The requirement of this subsection is satisfied by including the full name of the condominium in all offering literature.]

17-5 § 4.5. Exemption from marketing regulations.

Nothing in Regulations 17-1, 17-3(b), (c) and (d) and 17-4 §§ 4.1, 4.3 A, B and C, and § 4.4 shall apply in the case of a condominium exempted from registration by § 55-79.87 (a), (b) or (c) of the Code of Virginia, or condominiums located outside of Virginia for which no contracts are to be signed in Virginia.

SECTION 18

PART V.

PUBLIC OFFERING STATEMENT.

18-1 § 5.1. Scope of public offering statement.

A public offering statement shall make disclosure relative to a single offering and to the entire condominium in which the condominium units being offered are located. Not more than one version of a public offering statement shall be authorized for use or used at any given time with respect to a particular condominium.

18-2 § 5.2. Offering defined.

As used in these condominium regulations, the word "offering" shall refer to the continuing act of the declarant in making condominium units owned by the declarant within a particular condominium available for acquisition by purchasers or, where appropriate, to the aggregate of the condominium units thus made available.

18-3 § 5.3. Preparation of public offering statement.

The public offering statement shall be clear and legible with pages numbered sequentially. A blank cover or a cover bearing identification information only may be used. Except as elsewhere provided, no portion of the public offering statement may be [~~underlined, italicized or~~] printed in larger, heavier or different color type than the remainder of the public offering statement. The first page of the public offering statement shall be prepared to conform as closely as possible to the specimen appended as Appendix B A to these regulations and made a part hereof.

18-4 § 5.4. Nature of information to be included.

A. The provisions of §§ 55-79.90(a) and 55-79.94(a) of the Code of Virginia, and Regulations 18-1 §§ 5.1 through 20-7 8.7 of these regulations shall be strictly construed to promote full and accurate disclosure in the public offering statement and, thereby, to protect the interests of purchasers.

B. The requirements for disclosure are not exclusive. In addition to expressly required information, the declarant shall disclose all other available information which may reasonably be expected to affect the decision of the ordinarily prudent purchaser to accept or reject the offer of a condominium unit. The declarant shall disclose any additional information necessary to make the required information not misleading. No information may be presented in such a fashion as to obscure the facts, to encourage a misinterpretation of the facts or otherwise to mislead a purchaser.

C. No information shall be incorporated by reference to an extrinsic source which is not readily available to an ordinary purchaser. Whenever required information is not known or not reasonably available, such fact shall be stated in the public offering statement with a brief explanation. Whenever special circumstances exist which would render required disclosure inaccurate or misleading, the required disclosure shall be modified to accomplish the purpose of the requirement or the disclosure shall be omitted, provided that such modification or omission promotes full and accurate disclosure.

D. Disclosure shall be made of pertinent facts, events, conditions or other states of affairs which the declarant has reason to believe will occur or exist in the future or which the declarant intends to cause to occur or exist in the future. Disclosure relating to future facts, events, conditions or states of affairs shall be limited by the provisions of subparagraph subsection F hereof.

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E. The public offering statement shall be as brief as is consistent with full and accurate disclosure. In no event shall the public offering statement be made so lengthy or detailed as to discourage close examination.

F. Expressions of opinion in the public offering statement shall be deemed inconsistent with full and accurate disclosure unless there is ample foundation in fact for the opinion; provided, however, that this sentence shall not affect in any way the declarant's duty to set forth a projected budget for the condominium's operation.

G. Except for brief excerpts therefrom, the public offering statement shall not incorporate verbatim portions of the condominium instruments or other documents. The purchaser's attention may be directed to pertinent portions of the declaration, bylaws or other documents attached to the public offering statement which are too lengthy to incorporate verbatim.

H. Maps, photographs and drawings may be utilized in the public offering statement, provided that such utilization promotes full and accurate disclosure. [*These attachments shall be in standard size.*]

18-5 § 5.5. Readability.

The public offering statement shall be clear and understandable. Determinations as to compliance with the standards of this paragraph are within the exclusive discretion of the *Commission board*.

18-6 § 5.6. Summary of important considerations.

A. Immediately following the first page *and before the table of contents*, the public offering statement shall include a summary of important considerations consisting of particularly noteworthy items of disclosure. Certain summary statements are required by subsection D hereof. Other summary statements may be proposed by the declarant or included by order of the *Commission board* for the purpose of reinforcing the disclosure of significant information not otherwise included in the summary of important considerations. No summary statement shall be included for the sole purpose of enhancing the sales appeal of condominium units.

B. The summary shall be titled as such and shall be introduced by the following statement: "Following are important matters to be considered in acquiring a condominium unit. They are highlights only. The narrative sections should be examined to obtain detailed information." Each summary statement shall include a reference to pertinent portions, if any, of the public offering statement for details respecting the information summarized. Each summary statement, exclusive of any reference to other portions of the public offering statement, shall be limited to not more than three sentences except that the *Commission board* may, by order, permit or require additional sentences.

C. Whenever the *Commission board* finds that the significance to purchasers of certain information requires that it be disclosed more conspicuously than by regular presentation in the summary of important considerations, it may provide, by order, that a summary statement of the information shall be underscored, italicized or printed in a larger or heavier or different color type than the remainder of the public offering statement.

D. Summary statements shall be made of the substance of the following facts and circumstances, to the extent that each is applicable. Specific information shall be substituted for the general information indicated by brackets. Appropriate modifications shall be made to reflect facts and circumstances varying from those indicated herein:

1. The condominium will be governed by a ~~units~~ *unit* owners' association. Each unit owner will have a vote on certain decisions of the association and will be bound by all decisions of the association including those with which he disagrees.

2. Certain decisions of the unit owners' association will be made by \langle [an executive organ] \rangle .

3. The expenses of operating the unit owners' association will be paid by the unit owners on the basis of a \langle [periodic] \rangle budget. Each unit owner will pay a \langle [periodic] \rangle assessment. A unit owner cannot reduce the amount of his assessment by refraining from use of the common elements.

4. If a unit owner fails to pay an assessment when due, the unit owners' association will have a lien against his condominium unit. Certain other penalties may be applied.

5. The declarant must pay assessments on unsold condominium units.

6. The declarant, its predecessors or principal officer has undergone \langle [a debtor's relief proceeding] \rangle .

7. The declarant will retain control of the unit owners' association for \langle [an initial period] \rangle .

8. A managing agent will perform the routine operations of the unit owners' association. The managing agent is \langle [related to] \rangle the \langle [declarant, director or officer of the unit owners' association] \rangle .

9. The declarant may rent unsold condominium units. The right of any unit owner to rent his unit is subject to \langle [restrictions] \rangle .

10. The declarant may \langle [expand or contract the condominium or convert convertible land or space] \rangle without the consent of any unit owner.

11. The right of the unit owner to resell his condominium unit is subject to \langle [restrictions] \rangle .

12. The units are restricted to residential use.

13. The unit owner may not alter the structure of his unit or modify the exterior of his unit without the approval of the { [declarant or unit owners' association] } .

14. The unit owners' association will obtain certain insurance benefiting the unit owner, but the unit owner should obtain other insurance on his own.

15. The unit owner will pay real estate taxes on his condominium unit.

16. *The unit owner's right to bring legal action against the declarant is limited by certain provisions of the purchase contract; specifically the contract [requires the unit owner or the association to pay the attorney's fee of the declarant; requires the unit owner to waive a jury in any civil action against the declarant].*

17. *The condominium is [is not] subject to development as a time-share.*

18. *Marketing and sale of condominium units will be conducted in accordance with the Virginia Fair Housing Law (Code of Virginia § 36-85 et seq.) and the Virginia Condominium Act (Code of Virginia § 55-79.52(c)).*

18-7 § 5.7. Narrative sections.

The information to be presented in the public offering statement shall be broken down into sections in order to facilitate reading and comprehension. Certain sections are required by Regulations 18-8 §§ 5.8 through 18-23 5.23 of these regulations . Supplementary sections may be included whenever necessary to incorporate information which cannot properly be placed within one of the required sections. Supplementary section captions which indicate the nature of the material presented thereunder shall be utilized. The sections may be set out in any order which lends itself to the organized presentation of information. Section captions may be underscored, italicized or printed in larger or heavier or different color type than the remainder of the public offering statement. A table of contents shall be utilized.

18-8 § 5.8. Narrative sections; condominium concept.

The public offering statement shall contain a section captioned "The Condominium Concept." The section shall consist of a brief discussion of the condominium form of ownership. The section shall discuss the distinction among units, common elements and limited common elements, if any, and shall explain ownership of an undivided interest in the common elements. Attention shall be directed to any features of ownership of the condominium units being offered which are different from typical condominium unit ownership.

18-9 § 5.9. Narrative sections; creation of condominium.

The public offering statement shall contain a section captioned "Creation of the Condominium." The section shall briefly explain the manner in which the condominium was or will be created and shall briefly describe each of the condominium instruments, their functions, and the procedure for their amendment. The section shall indicate where each of the condominium instruments or copies thereof may be found. In the case of a condominium located in Virginia or in a jurisdiction having a law similar to § 55-79.96 of the Code of Virginia, the section shall indicate the purchaser will receive copies of the recorded declaration and bylaws, or amendments, as appropriate, within the time provided for in the applicable statute.

18-10 § 5.10. Narrative sections; description of condominium.

A. The public offering statement shall contain a section captioned "Description of the Condominium." The section shall contain a narrative description of the condominium. The description shall include statements of (i) the land area of the condominium; (ii) the number of units in the condominium; (iii) the number of units in the offering; [and] (iv) the number of units in the condominium planned to be rented[; and (v) whether at the time of registration the declarant intends to sell more than 20% of the units to persons who do not intend to occupy the units as their primary residence] .

B. If the condominium is contractable, expandable or includes convertible land or space, the section shall contain a brief description of each such feature including the land area and the maximum number of units or maximum number of units per acre which may be added, withdrawn or converted, as the case may be, together with a statement of the declarant's plans for the implementation of each such feature. In the case of a contractable or expandable condominium, the section shall contain the substance of the following statement: "The construction and development of the condominium may be abandoned or altered, at the declarant's option, short of completion and land or buildings originally intended for condominium development may be put to other uses or sold." In the case of a condominium including convertible land, the section shall contain the substance of the following statements: "Until such time as the declarant converts the convertible land into units or limited common elements, the unit owners will be declarant is required by the Virginia Condominium Act to pay for the upkeep of the convertible land. Approximately ~~per~~ ~~cent~~ of the common expenses will result from such upkeep." The appropriate percentage shall be inserted in the statement. *Once the convertible land has been converted, maintenance and other financial responsibilities associated with the land so designated become the responsibility of the unit owners and, therefore, may be reflected in the [monthly periodic] assessment for the condominium." [If the common expense assessment will increase, the section*

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shall also disclose the approximate percentage of such increase. If the common expense assessments are expected to increase should convertible land be converted, this section shall also disclose an estimate of the approximate percentage by which such assessments are expected to increase by reason of any such conversion.]

C. The section shall state whether or not the units are restricted solely to residential use and shall state where this and other use and occupancy restrictions are to be found in the condominium instruments.

[D. The section shall indicate the availability of vehicular parking spaces including the number of spaces available per unit and restrictions on or charges for the use of spaces.]

18-11 § 5.11. Narrative section; individual units.

The public offering statement shall contain a section captioned "Individual Units." The section shall contain a general description of the various type units being offered, together with the dates on which substantial completion of unfinished units is anticipated. The section shall discuss what restrictions, if any, exist as to changes unit owners may make to the structure or exterior of their units, whether or not said exterior is a portion of the common elements.

18-12 § 5.12. Narrative sections; common elements.

A. The public offering statement shall contain a section captioned "Common Elements." The section shall contain a general description of the common elements.

B. A statement of the anticipated completion dates of unfinished common elements shall be included except that no such statement shall be necessary with respect to common elements which are completed or expected to be substantially complete when the units are completed.

C. With respect to common elements which the declarant intends to build or place on the condominium but which are not expected to be substantially complete when the units are completed, the section shall state: (i) In the case of a condominium located in Virginia, the nature, source and extent of the obligation to complete such common elements which the declarant has incurred or intends to incur upon recordation of the condominium instruments pursuant to §§ 55-79.58(a) and 55-79.67(a)(1) of the Code of Virginia and applicable provisions of the condominium instruments and that in accordance with Virginia Code pursuant to § 55-79.58:1 of the Code of Virginia, the declarant has filed with the Virginia Real Estate Commission Board a bond (~~Appendix E (1)~~) to insure completion of improvements to the common elements which the declarant has incurred or intends to incur upon recordation of the condominium instruments; and (ii) in the case of a condominium located outside of Virginia, the nature, source and extent of the obligation to complete such common elements which the declarant has

incurred or intends to incur under the law of the jurisdiction in which the condominium is located.

D. The section shall describe any limited common elements which are assigned or which may be assigned and shall indicate the reservation of exclusive use. In the case of limited common elements which may be assigned, the section shall state the manner of such assignment or reassignment.

[E. The section shall indicate the availability of vehicular parking spaces including the number of spaces available per unit and restrictions on or charges for the use of spaces.]

18-13 § 5.13. Narrative sections; declarant.

A. The public offering statement shall contain a section captioned "The Declarant." The section shall contain a brief history of the declarant with emphasis on its experience in condominium development.

B. The following information shall be stated with regard to persons immediately responsible for the development of the condominium: (i) name; (ii) length of time associated with the declarant; (iii) role in the development of the condominium; and (iv) experience in real estate development. If different from the persons immediately responsible for the development of the condominium, the principal officers of the declarant shall be identified.

C. If the declarant or its parent or predecessor organization has, during the preceding 10 years, been adjudicated a bankrupt or has undergone any proceeding for the relief of debtors, such fact or facts shall be stated. If any of the persons identified pursuant to subsection B hereof has, during the preceding three years, been adjudicated a bankrupt or undergone any proceeding for the relief of debtors, such fact or facts shall be stated.

D. The section shall indicate any final action taken by an administrative agency or civil or criminal court which reflects adversely upon the performance of the declarant as a developer of real estate projects. The section shall also indicate any current or past proceedings brought against the declarant by ~~the~~ any condominium unit owners' association or by its executive organ or any managing agent on behalf of such association or which has been certified as a class action on behalf of some or all of the unit owners [; including disclosure of the ultimate disposition of the proceedings. . For the purposes of the previous sentence with respect to past proceedings, if the ultimate disposition of those proceedings is one which reflects adversely upon the performance of the declarant, that disposition shall be disclosed.] The board has the sole discretion to require additional disclosure of any legal proceedings where it finds such disclosure necessary to assure full and accurate disclosure .

18-14 § 5.14. Narrative sections; terms of offering.

A. The public offering statement shall contain a section captioned "Terms of the Offering." The section shall discuss the expenses to be borne by a purchaser in acquiring a condominium unit and present information regarding the settlement of purchase agreements as provided in ~~subparagraphs~~ *subsections B through [F G]* hereof.

B. The section shall indicate the offering prices for condominium units or a price range for condominium units, if either are *is* established.

C. The section shall set forth the significant terms of any financing offered by or through the declarant to purchasers. Such discussion shall include the substance of the following statement: "Financing is subject to additional terms and conditions stated in the loan commitment or instruments."

D. The section shall discuss in detail any settlement costs which are not normal for residential real estate transactions including, without limitation, any contribution to the initial or working capital of the unit owners' association to be paid by a purchaser at settlement.

E. The section shall discuss any penalties or forfeitures to be incurred by a purchaser upon default in performance of a purchase agreement which are not normal for residential real estate transactions. Penalties or forfeitures to be discussed include, without limitation, the declarant's right to retain sums deposited in connection with a purchase agreement in the event of a refusal by a lending institution to provide financing to a purchaser who has made proper application for same.

F. The section shall discuss the right of the declarant to cancel a purchase agreement upon failure of the declarant to obtain purchase agreements on a given number or percentage of condominium units being offered or upon failure of the declarant to meet other conditions precedent to obtaining necessary financing.

G. The section shall set forth the significant terms of the purchase agreement. Included in this discussion shall be a detailed description of provisions which limit the unit owners' rights to seek legal recourse against the declarant.

~~18-15~~ § 5.15. Narrative sections; encumbrances.

A. The public offering statement shall contain a section captioned "Encumbrances." The section shall include the significant terms of any encumbrances, easements, liens and matters of title affecting the condominium as provided in ~~subparagraph~~ *subsections B through I* hereof.

B. Except to the extent that such encumbrances are required to be satisfied or released by § 55-79.46(a) of the Code of Virginia, or a similar law, the section shall describe every mortgage, deed of trust, other perfected lien or choate mechanics or materialmen's lien affecting

all or any portion of the condominium other than those placed on condominium units by their purchasers or owners. Such description shall identify the lender secured or the lienholder shall state the nature and original amount of the obligation secured, shall identify the party having primary responsibility for performance of the obligation secured and shall indicate the practical effect upon unit owners of failure of said party to perform the obligation.

C. Normal easements for utilities, municipal rights-of-way and emergency access shall be described only as such, without reference to ownership, location or other details.

D. Easements reserved to the declarant to facilitate conversion, expansion or sales shall be briefly described.

E. Easements reserved to the declarant or to *the* unit owners' association or its representatives or agents for access to units shall be briefly described. In the event that access to a unit may be had without notice to the unit owner, such fact shall be stated.

F. Easements across the condominium reserved to the owners or occupants of land located in the vicinity of the condominium including, without limitation, easements for the use of recreational areas shall be briefly described.

G. Covenants, servitudes or other devices which create an actual or potential restriction on the right of any unit owner to use and enjoy his unit or any portion of the common elements other than limited common elements shall be briefly described.

H. Any matter of title which is not otherwise required to be disclosed by the provisions of this section and which has or may have a substantial adverse impact upon units owners' interests in the condominium shall be described. Under normal circumstances, an easement for encroachments and an easement running in favor of unit owners for ingress and egress across the common elements shall be deemed not to have a substantial adverse impact upon unit owners' interest in the condominium.

I. The section need not include any information required to be disclosed by ~~Regulations 18-10(e) §§ 5.10 C , 18-11 5.11 or 18-16 5.16~~ *of these regulations* .

~~18-16~~ § 5.16. Narrative sections; restrictions on transfer.

The public offering statement shall include a section captioned "Restrictions on Transfer." The section shall describe and explain any rights of first refusal, preemptive rights, limitations on leasing or other restraints on free alienability created by the condominium instruments or the rules and regulations of the unit owners' association and which affect the unit owners' right to resell, lease or otherwise transfer an interest in his condominium unit.

~~18-17~~ § 5.17. Narrative sections; unit owners' association.

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A. The public offering statement shall contain a section captioned "Unit Owners' Association." The section shall discuss the manner in which the condominium is governed and administered and shall include the information required by ~~subparagraphs~~ *subsections* B through J hereof.

B. The section shall state in summary fashion the functions of the unit owners' association.

C. The section shall describe the organizational structure of the unit owners' association. Such description shall indicate (i) the existence of or provision for an executive organ, officers and managing agent, if any; (ii) the relationships between such persons or bodies; (iii) the manner of their election or appointment; and (iv) the assignment or delegation of responsibility for the performance of the functions of the unit owners' association.

D. The section shall describe the allocation of voting power among the unit owners.

E. The section shall discuss any retention by the declarant of control over the unit owners' association *both during the declarant control period and after control of the [association has been transferred to the unit owners. The particular] provisions of the plan to ease the transition of this transfer shall also be described .*

F. The managing agent, if any, shall be identified. If a managing agent is to be employed in the future, the criteria, if any, for selection of the managing agent shall be briefly stated. The section shall indicate any relationship between the managing agent and the declarant or a member of the executive organ or an officer of the unit owners' association. The duration of any management agreement shall be stated.

G. Except to the extent otherwise disclosed in connection with discussion of a management agreement, the significant terms of any lease of recreational areas or similar contract or agreement affecting the use, maintenance or access of all or any part of the condominium shall be stated. The section shall include a brief narrative statement of the effect of each such agreement upon a purchaser.

H. Rules and regulations of the unit owners' association and the authority to promulgate rules and regulations shall be discussed. Particular provisions of the rules and regulations shall not be discussed except as required by other provisions of these condominium regulations. The purchaser's attention shall be directed to the copy of rules and regulations, if any, attached to the public offering statement.

I. Any standing committees established or to be established to perform functions of the unit owners' association shall be discussed. Such committees include, without limitation, architectural control committees and committees having the authority to interpret condominium

instruments, rules and regulations or other operative provisions.

J. Unless required to be disclosed by ~~Regulation 18-15 (e)~~ *§ 9.15, subsection E, of these regulations* any power of the declarant or of the unit owners' association or its representatives or agents to enter units shall be discussed. To the extent each is applicable, the following facts shall be stated: (i) a unit may be entered without notice to the unit owner; (ii) the declarant or the unit owners' association or its representatives or agents are empowered to take actions or perform work in a unit without the consent of the unit owner; and (iii) the unit owner may be required to bear the costs of actions so taken or work so performed.

~~18-18~~ *§ 5.18.* Narrative sections; surrounding area.

The public offering statement shall contain a section captioned "Surrounding Area." The section shall briefly describe the zoning of the immediate neighborhood of the condominium. The section may indicate the existence and proximity of community facilities available to unit owners.

~~18-19~~ *§ 5.19.* Narrative sections; financial matters.

A. The public offering statement shall contain a section captioned "Financial Matters." The section shall discuss the expenses incident to the ownership of a condominium unit, excluding certain taxes, in the manner provided in ~~subparagraphs~~ *subsections* B through I hereof.

B. The section shall distinguish, in general terms, the following categories of costs of operation, maintenance, repair and replacement of various portions of the condominium: (i) common expenses apportioned among and assessed to all of the condominium units pursuant to § 55-79.83(c) of the Code of Virginia or similar law or condominium instrument provision (referred to elsewhere in these regulations as "regular common expenses"); (ii) common expenses, if any, apportioned among and assessed to less than all of the condominium units pursuant to § 55-79.83(a) and (b) of the Code of Virginia or similar law or condominium instrument provisions; and (iii) costs borne directly by individual unit owners. The section need not discuss taxes assessed against individual condominium units and payable directly by their owners.

C. A projected budget shall be prepared showing regular common expenses to be assessed for the first year of the condominium's operation or, if different, the latest year for which projections are available; provided, however, that in no event shall the year for which the budget is projected have commenced more than six months prior to the date application for registration is filed. ~~The projected budget shall be prepared by inserting appropriate information in a budget form similar to Appendix D appended to these regulations and made a part hereof.~~ The projected budget shall be attached to the public offering statement as an exhibit and the section shall direct the purchaser's attention thereto. The section shall

describe the manner in which the projected budget is established.

D. The section shall describe the manner in which regular common expenses are apportioned among the assessed to the condominium units. The section shall include the substance of the following statement, if applicable: "A unit owner cannot obtain a reduction of the regular common expenses assessed against his unit by refraining from use of any of the common elements."

E. The section shall describe budget provisions for reserves for capital expenditures and for contingencies, if any.

F. The section shall describe provisions for special assessments to be levied in the event that budgeted assessments provide insufficient funds for operation of the unit owners' association.

G. The section shall discuss any common expenses actually planned to be specially assessed pursuant to § 55-79.83(a) and (b) of the Code of Virginia or similar law or condominium instrument provisions.

H. The section shall indicate any fee, rental or other charge to be payable by unit owners other than through common expense assessments to any party for use of the common elements or for use of recreational or parking facilities in the vicinity of the condominium. As an exception to the provisions of this ~~subparagraph~~ subsection, the section need not discuss any fees provided for in §§ 55-79.84(h) and 55-79.85 of the Code of Virginia, or similar laws or condominium instrument provisions or any costs for certificates for resale.

I. The section shall discuss the effect of failure of a unit owner to pay when due assessments levied against his condominium unit. Such discussion shall indicate provisions for penalties to be applied in the case of overdue assessments and for acceleration of unpaid assessments. The section shall indicate the existence of a lien for unpaid assessments and where applicable the bond (~~Appendix C(2)~~) conditioned on the payment of assessments filed with the Commission in accordance with § 55-79.84:1 of the Code of Virginia. The section shall include, to the extent applicable, the substance of the following statement: "The unit owners' association may obtain payment of overdue assessments by foreclosure of the lien resulting in a forced sale of the condominium unit or by suing the unit owner."

18-20 § 5.20. Narrative sections; insurance.

The public offering statement shall contain a section captioned "Insurance." The section shall describe generally the insurance on the condominium to be maintained by the unit owners' association. The section shall state, with respect to such insurance, each of the following circumstances, to the extent applicable: (i) property damage coverage will not insure personal property

belonging to unit owners; (ii) property damage coverage will not insure improvements to a unit which increase its value beyond the limits of coverage provided in the unit owners' association's policy, and (iii) liability coverage will not insure against liability arising from an accident or injury occurring within a unit or as a result of the act or negligence of a unit owner. The section shall indicate any conditions imposed by the condominium instruments or rules and regulations to which insurance obtained directly by unit owners will be subject. Such indication may be made by reference to pertinent provisions of the condominium instruments or rules and regulations.

~~18-21~~ § 5.21. Narrative sections; taxes.

A. The public offering statement shall contain a section captioned "Taxes." The section shall describe all existing or proposed taxes to be levied against condominium units individually including, without limitation, real property taxes, sewer connection charges and other special assessments. [~~Taxes levied against the entire condominium and payable by the unit owners' association shall be disclosed pursuant to the provisions of~~] Regulation 18-19 [~~§ 5-19 of these regulations.~~]

B. With respect to real property taxes, the section shall state the [~~assessed valuations of the condominium units and the~~] tax rate currently in effect. [~~If assessed valuations have not yet been determined, the~~ *The*] section shall [~~also~~] state a procedure or formula by means of which the taxes may be estimated [~~once assessed value has been determined~~].

C. With respect to other taxes, the section shall describe each tax in sufficient detail as to indicate the time at which the tax will be levied and the actual or estimated amount to be levied.

~~18-22~~ § 5.22. Narrative sections; governmental approval.

The public offering statement shall contain a section captioned "Governmental Approval." The section shall discuss approval of a site plan and issuance of a building permit by appropriate governmental authorities. The section shall also discuss compliance with all zoning ordinances, building codes, housing codes and similar laws affecting the condominium.

~~18-23~~ § 5.23. Narrative sections; warranties.

The public offering statement shall contain a section captioned "Warranties." The section shall describe any warranties provided by or through the declarant on the units or the common elements. If any such warranty is different from the warranty provided by § 55-79.79(b) of the Code of Virginia or a similar applicable law, the section shall include the substance of the following statement: "Nothing contained in the warranty provided by the declarant shall limit the protection afforded by the statutory warranty." [~~If the statute of limitations for asserting claims under this warranty may be limited by~~]

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separate agreement, the terms of such agreement must be described in this section.]

18.24 § 5.24. Documents to be included.

Copies of the following documents shall be attached as exhibits to the public offering statement: (i) the declaration; (ii) the bylaws; (iii) the projected budget; (iv) rules and regulations of the unit owners' association; (v) any management contract; (vi) any lease of recreational areas; and (vii) any similar contract or agreement affecting the use, maintenance or access of all or any part of the condominium. Other pertinent documents may be attached to the public offering statement including, without limitation, a purchase agreement, a certificate of warranty, a *warranty limitation agreement* and a depiction of unit layouts.

18.25 Time share condominiums; special disclosure provisions. — (a) A time share condominium is one in which (1) title to one or more condominium units vests in the unit owners during regularly recurring periods of time or (2) one or more condominium units is owned as a tenancy in common with the right of unit owners to possess such condominium units being limited to regularly recurring periods of time.

(b) The public offering statement for a time share condominium shall contain a narrative section captioned "Time Share Ownership." The section shall discuss the special characteristics of the time share condominium, including the program for management. The section shall contain the disclosures required by subparagraphs (c) through (e) hereof and, if applicable, the disclosures required by subparagraph (f) hereof.

(c) The section shall discuss the possibility that real property taxes will be assessed against a condominium unit owned in time shares and not apportioned among the various time share owners according to their relative interests with the result that, upon default in payment of taxes by one time share owner, a tax lien will attach to the entire condominium unit and encumber the titles of all time share owners thereof.

(d) The section shall discuss the manner in which a lien for assessments will be enforced. The discussion shall indicate the extent to which enforcement of the lien for assessments against one time share owner of a condominium unit will affect the interests of other time share owners of the condominium unit.

(e) The section shall indicate the number of condominium units which are or may be owned in time shares and the number of condominium units which are or may be owned outright by an individual unit owner.

(f) In the case of a time share condominium in which one or more condominium units is owned as a tenancy in common, the section shall indicate that (1) a federal tax lien arising from default in payment of federal taxes by a

time share owner will be imposed on the entire condominium unit and encumber the title of all time share owners thereof and (2) a suit to partition a condominium unit owned in time shares may be brought by any unit owner, unless applicable law prohibits such a suit.

18.26 § 5.25. Documents from other jurisdictions.

A. A substituted disclosure document is a document originally prepared in compliance with the laws of another jurisdiction and modified in accordance with the provisions of this paragraph in order to fulfill the disclosure requirements established for public offering statements by § 55-79.90(a) and, if applicable, § 55-79.94(a) of the Code of Virginia. A substituted disclosure document shall not be employed in the case of a condominium located in Virginia.

B. The substituted disclosure document shall be prepared by deleting from the original disclosure document: (i) references to any governmental agency of another jurisdiction to which application has been made or will be made for registration or related action; (ii) references to the action of such governmental agency relative to the condominium; (iii) statements of the legal effect in another jurisdiction of delivery, failure to deliver, acknowledgement of receipt or related events involving the disclosure document; (iv) the effective date or dates in another jurisdiction of the disclosure document; and (v) all other information which is untrue, inaccurate or misleading with respect to marketing, offers or disposition of condominium units in Virginia.

C. The substituted disclosure document shall incorporate all information not otherwise included which is necessary to effect fully and accurately the disclosures required by §§ 55-79.90(a) and, if applicable, 55-79.94(a) of the Code of Virginia. The substituted disclosure document shall clearly explain any nomenclature which is different from the definitions provided in § 55-79.41 or which, for any other reason, may confuse purchasers in Virginia. Any information not required by §§ 55-79.90(a) and 55-79.94(a) of the Code of Virginia may be deleted, provided that such deletion does not render the required information misleading.

D. The first page of the substituted disclosure document shall be prepared to conform as closely as possible to the specimen appended as Appendix E A to these regulations and made a part hereof. The three blanks in the first sentence of the third paragraph of the specimen shall be completed by insertion of the following information: (i) the designation by which the original disclosure document is identified in the jurisdiction pursuant to whose laws it was prepared; (ii) the governmental agency of such other jurisdiction with which the original disclosure document is or will be filed; and (iii) the jurisdiction of such filing.

E. No portion of the substituted disclosure document may be underscored, italicized or printed in larger, heavier or different color type than the remainder of the

substituted disclosure document, except: (i) as required by ~~subparagraph~~ *subsection D* hereof; (ii) as required or permitted in the original disclosure document by the laws of the jurisdiction pursuant to which it was prepared; and (iii) as provided by order of the ~~Commission board~~ in cases in which it finds that the significance to purchasers of certain information requires that such information be disclosed more conspicuously than by regular presentation in the substituted disclosure document.

F. The provisions of §§ 55-79.88(c), 55-79.90, and 55-79.94(a) of the Code of Virginia and ~~Regulations 18.1, 18.3, 18.4, 18.5, 18.24 and 18.25~~ §§ 5.1, 5.3, 5.4, 5.5, 5.24 and Part 11 of these regulations shall apply to substituted disclosure documents in the same manner and to the same extent that they apply to public offering statements.

~~18.27~~ § 5.26. Condominium securities.

A prospectus used in lieu of a public offering statement shall contain or have attached thereto copies of documents, other than the projected budget required to be attached to a public offering statement by ~~Regulation 18.24~~ § 5.24. Such prospectus shall be deemed to satisfy all of the disclosure requirements of ~~Regulations 18.6~~ §§ 5.6 through ~~18.25~~ 5.24 and Part 7 of these regulations. In the case of a conversion condominium, the prospectus shall have attached thereto, in suitable form the information required by ~~Regulations 19.4, 19.5 (e) and (d), 19.6 and 19.7~~ §§ 6.4, 6.5 C and D, 6.6 and 6.7 of these regulations to be disclosed in public offering statements for conversion condominiums. The provisions of § 55-79.88(c) of the Code of Virginia shall apply to the delivery of the prospectus in the same manner and to the same extent that they apply to the delivery of a public offering statement.

SECTION 19

PART VI. CONVERSION CONDOMINIUMS.

~~19.1~~ § 6.1. Public offering statement for conversion condominium; general instructions.

The public offering statement for a conversion condominium shall conform in all respects to the requirements of ~~Regulations 18.1~~ §§ 5.1 through ~~18.27~~ 5.26 and Part VII of these regulations. In addition, the public offering statement for a conversion condominium shall (i) contain special disclosures in the narrative sections captioned "Description of the Condominium," "Terms of the Offering" and "Financial Matters"; and (ii) incorporate narrative sections captioned "Present Condition of the Condominium" and "Replacement Requirements." Provisions for such additional disclosure are set forth in ~~Regulations 19.3~~ §§ 6.3 through ~~19.7~~ 6.7 of these regulations.

~~19.2~~ § 6.2. Public offering statement for conversion condominium; special definitions.

As used in this paragraph and in ~~Regulations 19.3~~ §§ 6.3 through ~~19.7~~ 6.7 :

(a) "Structural component" shall mean means a component constituting any portion of the structure of a unit or common element and in which a defect would reduce the stability or safety of all or a part of the structure below accepted standards or restrict the normal intended use of all or a part of the structure.

(b) "Major utility installation" shall mean means a utility installation or portion thereof which is a common element or serves more than one unit.

(c) "Physical asset" is a generic term and shall mean means either a structural component or a major utility installation.

(d) "Present condition" shall mean means condition as of the date of the inspection by means of which condition is determined.

(e) "Structural defect" shall have the meaning given in § 55-79.79(b) of the Code of Virginia.

(f) "Class of physical assets" shall mean means two or more physical assets which are substantially alike in function, manufacture, date of construction or installation and history of use and maintenance.

(g) "Expected useful life" shall mean means the estimated number of years from the date on which such estimate is made until the date when, because of the effects of time, weather, stress or wear, a physical asset will become incapable of performing its intended function and will have to be replaced.

(h) "Replacement cost" shall mean means the expenditure which would be necessary to replace a physical asset with an identical or substantially equivalent physical asset as of the date on which replacement cost is determined and includes all costs of removing the physical asset to be replaced, of obtaining its replacement and of erecting or installing the replacement.

~~19.3~~ § 6.3. Description of conversion condominium.

In addition to the information required by ~~Regulation 18.10~~ § 5.10 of these regulations [,] the section captioned "Description of the Condominium" shall indicate that the condominium is a conversion condominium. The term conversion condominium shall be defined and the particular circumstances which bring the condominium within the definition shall be stated. The nature and inception date of prior occupancy of the property being converted shall be stated.

~~19.4~~ [§ 6.4. Terms of offering, conversion condominium. In addition to the information required by ~~Regulation 18.14~~ § 5.14 of these regulations ; the section captioned "Terms of the Offering" shall contain a specific statement of the

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amount of any initial or special condominium fee due from the purchaser on or before settlement of the purchase contract and the basis of such fee. Such fees include, without limitation, a required contribution to (i) the payment of costs of conversion in any manner other than through payment of the unit offering price; and (ii) a reserve for capital expenditures.]

10.5 [~~§ 6.5.~~ § 6.4.] Financial matters, conversion condominium.

A. The provisions for capital reserves described in the section captioned "Financial Matters" shall be supplemented by the information set forth in subparagraphs subsections B and C hereof.

B. The section shall state the aggregate replacement cost of all physical assets whose replacement costs will constitute regular common expenses and whose expected useful lives are 10 years or less. For the purposes of this subparagraph subsection , an expected useful life which is stated as being within a range of years pursuant to Regulations 10.7(e) [~~§ 6.7 E~~ § 6.6 E of these regulations] shall be deemed to be 10 years or less, if the lower limit of such range is 10 years or less. The total common expense assessments per unit which would be necessary in order to accumulate an amount of capital reserves equal to such aggregate replacement cost shall be stated.

C. The section shall state the amount of capital reserves which will be accumulated by the unit owners' association during the period of declarant's control together with any provisions of the condominium instruments specifying the rate at which reserves are to be accumulated thereafter. If any part of the capital reserves will or may be obtained other than through regular common expense assessments, such fact shall be stated.

D. The actual expenditures made over a three-year period on operation, maintenance, repair or other upkeep of the property prior to its conversion to condominium shall be set forth in tabular form as an exhibit immediately preceding or following the budget attached to the public offering statement pursuant to Regulation 18.10(e) § 5.19 subsection C of these regulations . Distinction shall be made between expenditures which would have constituted regular common expenses and expenditures which would have been borne by unit owners individually if the property had been converted to condominium prior to the commencement of the three-year period. To the extent that it is impossible or impracticable to so distinguish the expenditures it shall be assumed that they would have constituted regular common expenses.

Both types of expenditures shall be cumulatively broken down on a per unit basis in the same proportion that common expenses are or will actually be assessed against the condominium units. The three-year period to which this subparagraph subsection refers shall be the most recent three-year period prior to application for

registration during which the property was occupied and for which expenditure information is available. The expenditure information shall indicate the years for which expenditures are stated. If any portion of the property being converted to condominium was not occupied for the full three-year period, expenditure information shall be set forth for the maximum period the property was occupied. The "Financial Matters" section shall direct the purchaser's attention to the expenditure information.

10.6 [~~§ 6.6.~~ § 6.5.] Present condition of conversion condominium.

A. The section captioned "Present Condition of the Condominium" shall contain a statement of the approximate dates of original construction or installation of all physical assets in the condominium. A single construction or installation date may be stated for all of the physical assets: (i) in the condominium; (ii) within a distinctly identifiable portion of the condominium; or (iii) within a distinctly identifiable category of physical assets. A statement made pursuant to the preceding sentence shall include a separate reference to the construction or installation date of any physical asset within a stated group of physical assets which was constructed or installed significantly earlier than the construction or installation date indicated for the group generally. No statement shall be made that a physical asset or portion thereof has been repaired, altered, improved or replaced subsequent to its construction or installation unless the approximate date, nature and extent of such repair, alteration, improvement or replacement is also stated.

B. Subject to the exceptions provided in subparagraphs subsections D, E and F hereof, the section captioned "Present Condition of the Condominium" shall contain a description of the present condition of all physical assets within the condominium. The description of present condition shall disclose all structural defects and incapacities of major utility installations to perform their intended functions as would be observable, detectable or deducible by means of standard inspection and investigative techniques employed by architects or professional engineers, as the case may be.

C. The section shall indicate the dates of inspection by means of which the described present condition was determined; provided, however, that such inspections shall have been conducted not more than one year prior to the date of filing the application for registration. The section shall identify the party or parties by whom present condition was ascertained and shall indicate the relationship of such party or parties to the declarant.

D. A single statement of the present condition of a class of physical assets shall suffice to disclose the present condition of each physical asset within the class; provided, however, that, unless subparagraph subsection F hereof applies, such statement shall include a separate reference to the present condition of any physical asset within the class which is significantly different from the present

condition indicated for the class generally.

E. The description of present condition may include a statement that all structural components in the condominium or in a distinctly identifiable portion thereof are in sound condition except those for which structural defects are noted.

F. In a case in which there are numerous physical assets within a class of physical assets and inspection of each such physical asset is impracticable, the description of present condition of all the physical assets within the class may be based upon an inspection of a number of them selected at random, provided that the number selected is large enough to yield a reasonably reliable sample and that the total number of physical assets within the class and the number selected are disclosed.

~~10.7~~ [~~§ 6.7~~, § 6.6.] Replacement requirements in conversion condominium.

A. Subject to the exceptions provided in ~~subparagraphs~~ *subsections* B and H hereof, the section captioned "Replacement Requirements" shall state the expected useful lives of all physical assets in the condominium. The section shall state that expected useful lives run from the date of the inspection by means of which the expected useful lives were determined. Such inspection date shall be stated.

B. A single statement of the expected useful life of a class of physical assets shall suffice to disclose the expected useful life of each physical asset within the class; provided, however, that such statement shall include a separate reference to the expected useful life of any physical asset within such class which is significantly shorter than the expected useful life indicated for the class generally.

C. An expected useful life may be qualified. A qualified expected useful life is an expected useful life expressly conditioned upon a given use or level of maintenance or other factor affecting longevity. No use, level of maintenance or other factor affecting longevity shall be stated as a qualification unless such use, level of maintenance or factor affecting longevity is normal or reasonably anticipated for the physical asset involved. If appropriate, an expected useful life may be stated as being indefinite, subject to the stated qualification that the physical asset involved must be properly used and maintained. An expected useful life may be stated as being within a range of years, provided that the range is not so broad as to render the statement meaningless. In no event shall the number of years constituting the lower limit of such range be less than two-thirds of the number of years constituting the upper limit.

D. Subject to the exceptions provided in subsections E and H hereof, the section captioned "Replacement Requirements" shall state the replacement costs of all physical assets in the condominium including those whose

expected useful lives are stated as being indefinite.

E. A statement of the replacement cost of a representative member of a class of physical assets shall suffice to disclose the replacement cost of each physical asset within the class; provided, however, that such statement shall include a separate reference to the replacement cost of any physical asset within the class which is significantly greater than the replacement cost indicated for the representative member of the class.

F. Distinction shall be made between replacement costs which will be common expenses and replacement costs which will be borne by unit owners individually. The latter type of replacement costs shall be broken down on a per unit basis. The purchaser's attention shall be directed to the "Financial Matters" section for an indication of the amount of the former type or replacement costs.

G. In any case in which the replacement cost of a physical asset may vary depending upon the circumstances surrounding its replacement, the stated replacement cost shall reflect the circumstances under which replacement will most probably be undertaken.

H. A single expected useful life and an aggregate replacement cost may be stated for all of the structural components of a building or structure which have both (i) the same expected useful lives and (ii) replacement costs which will constitute regular common expenses. A statement made pursuant to the preceding sentence shall be accompanied by statements of the expected useful lives and replacement costs, stated on a per unit basis, of all of the structural components of the building or structure whose expected useful lives differ from the general expected useful life or whose replacement costs will be borne by unit owners individually.

~~10.8~~ [~~§ 6.8~~, § 6.7.] Notice to tenants.

No notice to terminate a tenancy provided for by § 55-79.94(b) of the Code of Virginia shall be given prior to the registration of the condominium unit as to which the tenancy is to be terminated.

PART VII. TIME-SHARE CONDOMINIUMS.

§ 7.1. *Public offering statement for time-share condominiums; general instructions.*

[*This Part VII of the Condominium Regulations applies to those property developments in which purchasers are offered both condominium and time-share interests. The developer of a time-share condominium shall prepare one public offering statement which complies with the requirements of this Part VII even though the developer may be required to register under both the Condominium Act and Real Estate Time-Share Act.*]

The public offering statement for a time-share

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condominium shall conform in all respects to the requirements of [§§ 6-1 and 6-3 through 6-26 §§ 5.1 and 5.3 through 5.26] of these regulations. In addition, the public offering statement for a time-share condominium shall (i) contain special disclosures in the narrative sections captioned "Condominium Concept," "Description of Condominium," "Declarant," "Terms of Offering," "Encumbrances," "Unit Owners' Association," "Financial Matters," "Insurance," and "Taxes," and (ii) contain a narrative section entitled "Exchange Program."

§ 7.2. Summary of important considerations.

In addition to the information required by § 5.6 in the case of a time-share program, summary statements shall be made of the substance of the following facts and circumstances. Specific information shall be substituted for the general information indicated by brackets. Appropriate modifications shall be made to reflect facts and circumstances varying from those indicated herein:

1. The time-share program will [will not] be governed by a time-share owners' association.
2. Decisions affecting the time-share project will be made by the developer.
3. Each time-share owner cannot reduce the amount of his assessment by refraining from use of his time-share or the projects' facilities.
4. If a time-share owner fails to pay an assessment when due, the developer may impose certain sanctions or penalties, including the forfeiture of the time-share.
5. The developer, its principals, officers, directors, partners, or trustees have undergone [a debtor's relief proceeding].
6. A managing agent may perform routine operations for the operation, maintenance and upkeep of the time-share project, as determined by the developer. The managing agent is [affiliated with] the [developer, or a director or officer thereof].
7. The developer may rent on a transient basis, unsold time-shares. The right of a time-share use owner to rent his time-share is subject to [restrictions].
8. The right of a time-share owner to resell his time-share is subject to [restrictions].
9. The time-shares are restricted to residential use.
10. The time-share owner may not alter the structure or exterior of the unit in which his time-share is located.
11. The developer will obtain certain insurance

benefiting the time-share use owner, but the time-share use owner should obtain additional insurance on his own.

12. The time-share owner may be required to pay applicable taxes imposed on the project similar in scope and design to taxes applicable to hotels, motels or other transient type accommodations.

13. Marketing and sale of time-shares will be conducted in accordance with Virginia Fair Housing Law (§ 36-85 et seq. of the Code of Virginia).

14. A time-share purchaser is required to make certain disclosures to purchasers in the resale of his time-share.

§ 7.3. Condominium concept, time-share condominium.

In addition to the information required by § 5.8 of these regulations, this section shall consist of discussion of the time-share form of ownership and shall include a detailed explanation of the type of time-share arrangement employed in the project.

§ 7.4. Description of condominium, time-share condominium.

In addition to the information required by § 5.10 of these regulations, this section shall consist of a general description of the time-share program, the units, amenities and type of time-shares being made available to purchasers. The section shall include, without limitation, statements indicating:

1. The land area of the time-share project;
2. The number of units in the project;
3. The number of units in the project to be organized on a time-share basis;
4. An identification of units that are subject to time-sharing and the type of time-shares being offered;
5. The duration of the time-shares;
6. The different types of units available;
7. Provisions, if any, that have been made for public utilities in the time-share project, including water, electricity, telephone, and sewerage facilities;
8. Restrictions, if any, as to what changes a time-share owner may make to his unit in which his time-share is located; and
9. Whether or not the units are restricted solely to residential use.

§ 7.5. Declarant/developer, time-share condominium.

In addition to the information required by § 9.13 of these regulations, the following information shall be stated with regard to every director, partner or trustee of the declarant/developer: (i) name and address; and (ii) principal occupation. The name and address of each person owning or controlling an interest of 20% or more in the time-share project shall also be indicated.

§ 7.6. Terms of offering, time-share condominium.

In addition to the information required by § 5.14, subsection A of these regulations, this section shall set forth provisions with respect to the purchaser's right to cancel his purchase contract. Such disclosure shall be consistent with the applicable statutory provision, § 55-79.88(c) or § 55-376 of the Code of Virginia. Special escrow requirements of § 55-375 of the Code of Virginia shall be likewise described in this section.

§ 7.7. Encumbrances, time-share condominium.

In addition to the information required by § 5.15 of these regulations, regardless of the form of time-share project, the section shall describe the extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other owners of the same unit. The section shall discuss the consequences that the filing of federal tax liens would have on the project.

§ 7.8. Unit owners' association, time-share condominium.

A. In addition to the information required by § 5.17 of these regulations, this section shall contain either a section captioned "Administration of Time-Share Estate Program" or a section captioned "Administration of Time-Share Use Program," depending upon the form of time-shares being offered by the developer. The section shall discuss the manner in which the time-share program will be governed and administered.

B. "Administration of time-share estate program."

1. The section shall describe the functions and the organization's structure of the time-share estate owners' association formed pursuant to the Virginia Nonstock Corporation Act. The description shall indicate:

- (a) the existence or provisions for a board of directors and officers;
- (b) the manner of their election or appointment;
- (c) the assignment or delegation of responsibility for performance of the functions of the unit owners' association; and
- (d) those items outlined in § 55-368, numbered 2 through 10, of the Code of Virginia.

2. The section shall describe the allocation of voting

power among the time-share estate owners and will explain how votes will be cast. Any provision in the time-share instruments for regular meetings of the estate owners shall be mentioned.

3. The significant terms of any lease of recreational areas or similar contract or agreement affecting the use, maintenance or access of all or any part of the time-share shall be stated. A brief narrative statement of the effect of each of any such agreement shall be included.

4. Rules and regulations for the use, enjoyment, and occupancy of units, and the authority to promulgate and amend such rules shall be discussed. Included shall be a description of the method, if any, to be employed to assign or reserve occupancy periods for the time-share owners. Methods for providing alternate use periods or monetary compensation to a time-share owner if his contracted-for unit cannot be made available for the period to which the owner is entitled by schedule or by confirmed reservation shall be discussed.

5. Any standing committees established or to be established to perform functions of the time-share estate owners' association shall be discussed. Such committees include, without limitation, executive committees, architectural control committees and committees having the authority to interpret time-share instruments or rules and regulations.

6. Any power of the developer or of the time-share estate owners' association to enter units shall be discussed. To the extent each is applicable, the following facts shall be stated:

- a. a unit may be entered without notice to the time-share owners;
- b. the developer or representatives of the time-share estate owners' association are empowered to take actions or perform work in a unit without the consent of the units owners; and
- c. the time-share owners may be required to bear the costs of actions so taken or work so performed.

7. The section shall describe any routine janitorial procedures that are to occur between occupancy periods of time-share owners, as well as any maintenance program that is to take place on an annual or semi-annual basis.

8. The managing agent, if any, shall be identified. If a managing agent is to be employed in the future, the criteria, if any, for selection of the managing agent shall be briefly stated. The section shall indicate any relationship between the managing agent and the developer or a member of the board of directors or an officer of the time-share estate owners' association.

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The duration of any management agreement shall be stated.

9. *The section shall discuss any retention by the developer of control over the time-share estate owners' association. The association's power to pass special assessments against and raise the annual assessments of the time-share owners upon the termination of the developer control shall also be discussed.*

C. *"Administration of time-share use program." The section shall provide the information required by § 55-371 of the Code of Virginia.*

§ 7.9. Financial matters, time-share condominium.

A. *In addition to the information required by § 5.19 of these regulations, this section shall contain either a section captioned "Finances of Time Share Estate Ownership" or a section captioned "Finances of Time-Share Use Ownership," depending upon the form of time-share development used in the projects. The section shall discuss the expenses incident to the ownership of a time-share in the manner provided in subsections B through H hereof.*

B. *The section shall describe the nature of the costs and expenses of operating the time-share program and shall distinguish between those to be paid by the developer and those to be paid by the time-share owners. The section shall explain how the responsibilities for payment of operating costs will be apportioned among the time-share owners. In the case of a time-share estate program, this section shall describe and distinguish between developer expenses and time-share estate occupancy expenses as well as the meaning of the "Developer Control Period" as outlined in § 55-369 of the Code of Virginia, and when it commences and ends. Mention shall be made of the developer's right to collect a periodic fee from the time-share estate owner for the payment of the latter expenses; the method of apportionment between time-share estate owners shall be explained.*

C. *The section shall contain a statement describing any current or expected fees or charges to be paid by time-share owners for the use and enjoyment of any facilities related to the project. This shall include, without limitation, any fee attributable to the use of recreational facilities mentioned in any of the time-share documents or during the marketing activities.*

D. *The section shall contain a statement describing the extent to which financial arrangements, if any, have been provided for completion of any time-share unit offered for sale.*

E. *The section shall describe any services which the developer provides or expenses it pays which may become at any subsequent time a time-share expense of the time-shares, and the projected time-share expense liability*

attributable to each of those services or expenses for each time-share.

F. *The section shall contain the latest annual balance sheet and a projected budget for the program for one year after the date of the first transfer to a purchaser. After that one-year period, a current budget shall be included in lieu of the projected budget and annual balance sheet mentioned above. All budgets shall be accompanied by a statement indicating the name of the preparer of the budget, and a statement explaining all budgetary assumptions concerning occupancy and inflation. All budgets must include, without limitation: (i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacements; and (ii) a statement of any other reserves. If the project is a time-share estate project and if the developer control period has not ended, the budget shall also include: (i) the projected common expense liability for all time-share owners; (ii) the projected common expense liability by category of expenditures; and (iii) a statement of the amount included in the budget reserved for repairs to and refurbishing of the project and the replacement of the personalty situated therein.*

G. *The "Finances of Time-Share Use Ownership" section shall, where the developer's equity in the project is less than \$250,000, include a current audited financial statement disclosing the developer's net worth. Such statement shall specifically state the amount of equity in the project.*

H. *The section shall discuss the effect of failure of a time-share owner to pay when due the assessments, fees or charges levied against his time-share. Such discussion shall indicate provisions for penalties to be applied in the case of overdue assessments including the lien authorized by § 55-370 B of the Code of Virginia, and for the acceleration of unpaid assessments.*

§ 7.10. Insurance, time-share condominium.

In addition to the information required by § 5.20 of these regulations, this section shall describe the insurance coverage provided for the benefit of time-share owners. Included shall be a discussion of the comprehensive general liability insurance for death, bodily injury, and property damage arising out of, or in connection with, the use and enjoyment of units by time-share estate owners or time-share use owners or their guests. It shall be made clear that in the case of a time-share estate project the costs associated with this liability insurance will be borne by the developer during the developer control period, and thereafter, the costs will be assumed by the time-share estate owners' association; and that in the case of a time-share use project, the costs associated with securing and maintaining such insurance shall be borne by the developer.

Depending on the time-share organization employed by the developer, §§ 55-368(7) or 55-371(7) of the Code of

Virginia shall be included in this discussion.

§ 7.11. Taxes, time-share condominium.

In addition to the information required by § 5.21 of these regulations, this section shall describe all existing or proposed taxes to be levied against time-shares individually including, without limitation, real property taxes, transient taxes and other special assessments.

§ 7.12. Exchange program, time-share condominium.

The public offering statement shall contain a section captioned "Exchange Program." if, at the time of purchase of a time-share, the purchaser is permitted or required to become a member of or a participant in an exchange program. An "exchange program" is a program offered by the developer or an independent exchange agent for the exchange of occupancy rights with the owners of time-shares of other time-share projects. This section shall contain the information required by § 55-374 B of the Code of Virginia.

SECTION 20

PART VIII.

POST-REGISTRATION PROVISIONS.

20.1 § 8.1. Material change defined.

As used in Regulations 20.2 §§ 8.2 through 20.5 8.5 of these regulations, "material change" shall mean means a change which renders inaccurate, incomplete or misleading, any information or document disclosed in or attached to a public offering statement whose form and content are designated for use pursuant to Regulations 15.3(g) §§ 2.4 G or 20.3(b) 8.3 B [of these regulations]. Without limiting the generality of the preceding sentence, a material change shall be whenever (i) information or a document required to be disclosed in or attached to a public offering statement but not so disclosed or attached by reason of its previous unavailability or nonexistence becomes available or comes into existence and (ii) a new budget is adopted.

20.2 § 8.2. Amendment of public offering statement.

A. Prior to or upon the occurrence of a material change, the declarant shall amend the public offering statement to disclose the modified or additional information or to include the modified or additional document, as the case may be. The declarant may amend the public offering statement other than in connection with a material change.

B. Amendment of the public offering statement may be accomplished in any intelligible manner and, to the extent that strict compliance with any of the provisions of these regulations governing the form of presentation of information in the public offering statement would be unduly burdensome, the declarant may deviate therefrom

in amending the public offering statement, provided that (i) no such deviation shall be more extensive than is necessary and appropriate under the circumstances; (ii) the requirements of Regulations 18.3 §§ 5.3 and 5.8 of these regulations are strictly observed and (iii) the presentation of information in the amended public offering statement is organized so as to facilitate reading and comprehension. Nothing contained herein shall authorize a deviation from strict compliance with a provision of these regulations governing the substance of disclosure in the public offering statement. If any information has become inaccurate or misleading by reason of the material change and is not deleted from the public offering statement in connection with its amendment, such fact shall be clearly noted.

C. Correction of spelling, grammar, omission or other similar errors not affecting the substance of a public offering statement shall not be deemed an amendment of the public offering statement for the purposes of these regulations; provided, however, that the declarant shall file with the Commission board a copy of a public offering statement so corrected.

20.2 § 8.3. Filing of amended public offering statement.

A. The declarant shall promptly file with the Commission board a copy of an amended public offering statement. Unless subparagraph subsection D hereof applies, the declarant shall, as part of such filing, update the application for registration on file with the Commission board either by filing a new application or by advising the Commission board of changes in the information contained in a previously filed application or file new or substitute documents. In the case of a public offering statement (i) amended other than in connection with a material change or (ii) presumed current pursuant to Regulation 20.5 § 8.5 [of these regulations], the filing shall indicate the date of amendment.

B. Unless subparagraph subsection D hereof applies, the Commission board shall issue a notice of filing within five business days following receipt in proper form of the materials required by subparagraph subsection A hereof. The Commission board shall review the amended public offering statement and supporting materials to determine whether the amendment complies with Regulation 20.2 § 8.2 of these regulations. At such time as the Commission board affirmatively determines that the amendment complies with Regulation 20.2 § 8.2 [of these regulations], but not later than the thirtieth 30th day following issuance of the notice of filing, it shall enter an order designating the amended form and content of the public offering statement to be used. Such order shall provide that previous orders designating the form and content of the public offering statement for use are superseded.

C. If the Commission board determines, pursuant to subparagraph subsection B hereof, that an amendment to the public offering statement does not comply with Regulation 20.2 § 8.2 [of these regulations], it shall

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immediately, but in no event later than the ~~thirtieth~~ 30th day following issuance of the notice of filing enter an order declaring the amendment not in compliance with Regulation 20.2 § 8.2 [of these regulations] and specifying the particulars of such noncompliance. In the case of a public offering statement amended other than in connection with a material change, the order shall relate back to the date of amendment. If neither of the orders provided for by this ~~subparagraph~~ subsection and ~~subparagraph~~ subsection B hereof are entered within the time allotted, the amendment shall be deemed to comply with Regulation 20.2 § 8.2 [of these regulations], except that the ~~thirty~~ 30 -day period may be extended in the manner provided for extension of the correction period by Regulation 15.3(d) § 2.4, subsection D of these regulations . The declarant may, at any time correct and refile an amended public offering statement; provided, however, that if an order of noncompliance has been entered with respect to the amendment, all of the provisions of ~~subparagraphs~~ subsections A and B hereof and this ~~subparagraph~~ subsection shall apply to such refiling.

D. If the material change which resulted in amendment of the public offering statement was an expansion of the condominium or the formation of units out of convertible land or convertible space, the declarant shall file a complete application for registration of the additional units, provided, that no such application need be filed for units previously registered. Such application for registration shall be subject to all of the provisions of Regulations 15.1 §§ 2.1 through 16.3 3.3 [of these regulations] and the Commission board shall observe the procedures of Regulation 15.3 § 2.4 [of these regulations] in regard to the application. Documents then on file with the Commission board and not changed in connection with the creation of additional units need not be refiled, provided that the application indicates that such documents are unchanged.

E. In each case in which an amended document is filed pursuant to this paragraph and the manner of its amendment is not apparant on the face of the document, the declarant shall provide an indication of the manner and extent of amendment.

20.4 § 8.4. Current public offering statement.

A. A public offering statement is current if its form and content are designated for use pursuant to Regulations 15.3(e) §§ 2.4 G or 20.3(b) 8.3 B of these regulations and remains current so long as no material change occurs and any amendment of the public offering statement other than in connection with a material change is made in compliance with Regulation 20.2 § 8.2 [of these regulations].

B. A public offering statement ceases to be current upon the occurrence of a material change and, subject to the exception provided in Regulation 20.5 § 8.5 [of these regulations], does not thereafter become current unless and until (i) it is amended pursuant to Regulation 20.2 §

8.2 [of these regulations] and (ii) the Commission board , with respect to such amendment, enters an order pursuant to Regulation 15.3(e) §§ 2.4 G or 20.3(b) 8.3 B or fails to enter, within the times allotted therefor, any of the orders provided for by Regulations 15.3(e) §§ 2.4 E and G or 20.3(b) 8.3, subsections B and C of these regulations .

C. If the Commission board determines that the public offering statement amended other than in connection with a material change fails to comply with POR 9-1071 § 8.2 [of these regulations] that public offering statement ceases to be current as of the date of amendment. Such cessation shall be affected retroactively by the Commission board's entry of an order of noncompliance and nothing contained herein shall limit the declarant's right to use the public offering statement as current prior to the entry of an order of noncompliance. The public offering statement does not thereafter become current unless and until it is corrected and refiled and the Commission board , with respect to such amendment, enters an order pursuant to Regulation 20.3(b) § 8.3 B [of these regulations] or fails to enter either of the orders provided for by 20.3(b) § 8.3, subsection B or C of these regulations .

D. Upon issuance of a public offering statement amended because of the occurrence of a [material change as defined by § 8.1 change that materially and adversely affects the purchaser's bargain, that was caused by the declarant or any agent or affiliate of the declarant, and of the possibility of which the purchaser was not forewarned in the public offering statement given him pursuant to § 55-79.88(c) of the Code of Virginia, then] the purchaser's 10-day rescission right afforded by § 55-79.88(c) of the Code of Virginia is renewed. The declarant shall deliver the public offering statement so amended and give the purchaser notice of his renewed rescission right as required by § 8.6 of these regulations.

20.5 § 8.5. Certain amended public offering statements presumed current.

A. A public offering statement amended by the declarant to disclose any material change which is an aspect or result of the orderly development of the condominium or the normal functioning of the unit owners' association shall be presumed current immediately upon its amendment, subject, however, to the condition that the Commission board shall subsequently determine that the amendment was made in compliance with POR 9-2071 § 8.2 [of these regulations]. An amended public offering statement presumed current pursuant to this subsection shall be referred to elsewhere in these regulations as a presumptively current public offering statement.

B. The declarant shall file with the Commission board a copy of a presumptively current public offering statement and all of the provisions of Regulation 20.3 § 8.3 [of these regulations] shall apply to such filing except that, in addition: (i) filing shall be made not later than 10 business days following the occurrence of the material change which necessitated the amendment, and (ii) the filing shall

indicate the declarant's plans, if any, to deliver the presumptively current public offering statement to purchasers pursuant to § 55-79.88(c) of the Code of Virginia.

C. A ~~Commission board~~ order declaring that an amendment which resulted in a presumptively current public offering statement is not in compliance with ~~Regulation 20.2 § 8.2~~ [*of these regulations*] shall render ineffective the presumption that the public offering statement is current. In that event, the public offering statement shall be deemed to have ceased being current upon the occurrence of the material change which necessitated the amendment. Nothing contained herein shall limit the declarant's right to use a presumptively current public offering statement prior to entry of the order of noncompliance. A presumptively current public offering statement also ceases being current upon the declarant's failure to file within the time provided in ~~subparagraph subsection B~~ hereof, but such cessation shall have no retroactive effect. A presumptively current public offering statement which ceases to be current pursuant to this ~~subparagraph subsection~~ does not thereafter become current unless and until it is filed or refiled with the ~~Commission board~~ pursuant to ~~Regulation 20.3 § 8.3~~ [*of these regulations*] and the ~~Commission board~~, with respect to such public offering statement, enters an order pursuant to ~~Regulations 15.3(g) § 2.3 G or 20.3(b) § 8.3 B~~ [*of these regulations*] or fails to enter, within the times allotted therefor, any of the orders provided for in ~~15.3(e) § 2.3 E and (g) G or 20.3(b) §§ 8.3, subsections B and C~~ *of these regulations*.

~~20.6 § 8.6.~~ Public offering statement not current; notification of purchasers.

The declarant shall notify every purchaser to whom has been delivered a public offering statement which was subsequently determined not to have been current at the time of its delivery. Such notification shall indicate that any contract for disposition of a condominium unit is ~~cancelable~~ *may be cancelled* unless and until the declarant complies with the provisions of § 55-79.88(c) of the Code of Virginia. The declarant shall file a copy of the notification with the ~~Commission board~~ and provide proof that such notification has been delivered to all purchasers under contract.

~~20.7 § 8.7.~~ Annual report by declarant.

Prior to filing the annual report required by § 55-79.93 of the Code of Virginia, the declarant shall review the public offering statement then being delivered to purchasers. If such public offering statement is current, the declarant shall so certify in the annual report and include a copy thereof in the report. If such public offering statement is not current, the declarant shall amend the public offering statement and the annual report shall, in that event, consist of [*a*] filing complying with the requirements of ~~Regulation 20.3 § 8.3~~ [*of these regulations*]. In addition, the annual report shall indicate

the number of condominium units (i) conveyed, (ii) under contract for disposition, (iii) being rented by the declarant and (iv) still being offered. The annual report shall indicate the status of declarant's control retained pursuant to § 55-79.74 of the Code of Virginia. The annual report may be in any form suitable for compliance with the provisions of this paragraph and § 55-79.93 [*of the Code of Virginia*].

~~20.8 § 8.8.~~ Provisions applicable to substituted disclosure document, prospectus.

A. The provisions of ~~Regulations 20.1 §§ 8.1 through 20.7 8.7~~ [*of these regulations*] shall apply to a substituted disclosure document in the same manner and to the same extent that they apply to public offering statements.

B. The provisions of ~~Regulations 20.1 §§ 8.1 through 20.5 8.5~~ [*of these regulations*] shall apply to a prospectus only to the extent that amendment of the information or documents attached to the prospectus pursuant to ~~18.27 § 5.26~~ [*of these regulations*] is required or permitted. The body of the prospectus shall be amended only as provided in applicable securities law. The declarant shall immediately file with the ~~Commission board~~ any amendments to the body of the prospectus and, upon receipt thereof, the ~~Commission board~~ shall enter an order designating the form and content of the prospectus to be used and providing that previous orders designating the form and content of the prospectus for use are superseded. A prospectus is current so long as it is effective under applicable securities law and the information and documents attached thereto are current under the provisions of ~~Regulations 20.4 §§ 8.4 and 20.5 8.5~~ *of these regulations*. The declarant shall immediately notify the ~~Commission board~~ if the prospectus ceases being effective. If no prospectus is effective and the declarant proposes to continue offering condominium units, the declarant shall file a public offering statement with the ~~Commission board~~ pursuant to ~~Regulation 20.3 § 8.3~~ [*of these regulations*].

C. The provisions of ~~Regulation 20.6 § 8.6~~ [*of these regulations*] shall apply to a prospectus in the same manner and to the same extent that they apply to a public offering statement.

D. In an annual report involving a prospectus the declarant shall comply with all of the provisions of ~~Regulation 20.7 § 8.7~~ [*of these regulations*] applicable to public offering statements and, in addition, shall certify that an effective prospectus is available for delivery to purchasers and shall indicate the declarant's plans or expectations regarding the continuing effectiveness of the prospectus.

SECTION 21

PART IX. HORIZONTAL PROPERTY REGIMES.

Final Regulations

~~21-1~~ § 9.1. Horizontal property regime; special definitions.

The definitions provided in § 55-79.2 of the Code of Virginia, as they may be supplemented herein, shall apply to ~~Regulations 21-1 §§ 9.1 through 21-7 9.7 of these regulations~~. A condominium established in Virginia prior to July 1, 1974, shall be referred to in ~~Regulations 21-1 §§ 9.1 through 21-7 9.7 [of these regulations]~~ as a "horizontal property regime."

~~21-2~~ § 9.2. Horizontal property regime; provisions applicable.

A horizontal property regime and ~~Commission board~~ action with respect thereto shall be subject to:

(a) 1. All of the provisions of ~~Regulations 14-1 §§ 1.1 through 14-6 [2 Part II of these regulations]~~ and

(b) 2. All of the provisions of ~~Regulations 17-1 §§ 4.1 through 17-4 4.4 except 17-2(b) § 4.3 B of these regulations~~, provided that each reference therein to registration shall be deemed to refer also to the issuance of a final public report.

~~21-3~~ § 9.3. Notice of intention.

A developer shall notify the ~~Commission board~~ of its intention to offer apartments in a horizontal property regime in Virginia by completing and filing at the offices of the ~~Commission board~~ a notice of intention containing substantially all of the information and documents required by the standard notice of intention, a copy of which is appended as Appendix F to these regulations and made a part hereof. The notice of intention may request issuance of a preliminary, final, substitute or supplementary public report.

~~21-4~~ § 9.4. Inspection by ~~Commission board~~.

Upon receipt of a notice of intention requesting issuance of a final, substitute or supplementary public report the ~~Commission board~~ shall determine whether an inspection of the horizontal property regime is necessary. If the ~~Commission board~~ determines that inspection is necessary, it shall so notify the developer within 10 days following receipt of the notice of intention. The developer shall pay an inspection fee of \$75 plus the reasonable expenses of first class travel incurred in such inspection. The duty of conducting the inspection and preparing the public report is delegated to the ~~Condominium property registration~~ administrator. Inspection fees shall be placed to the credit of the special fund established by § 55-79.31 of the Code of Virginia.

~~21-5~~ § 9.5. Public report.

Five copies of each public report issued by the ~~Commission board~~ shall be furnished to the developer without charge. Additional copies may be secured by the developer at its own expense. A developer shall not

represent or cause a purchaser to believe that the ~~Commission's board's~~ issuance of a public report is an approval of any horizontal property regime. The public report shall be used only in its entirety. The developer shall not cause any portion of a public report to be underscored, italicized or printed in larger, heavier or different color type than the remainder of the public report unless the original issued by the ~~Commission board~~ is so prepared.

~~21-6~~ § 9.6. Supplementary public report.

A. Whenever, following the first filing of a notice of intention with the ~~Commission board~~, a material change in the setup, value or use of a horizontal property regime occurs, the developer shall so notify the ~~Commission board~~. If the ~~Commission board~~ has issued a final, substitute or supplementary public report relative to the horizontal property regime, the notification provided for in the preceding sentences shall be accomplished by the filing of a notice of intention requesting issuance of a supplementary report. Previously issued final, substitute or supplementary public reports shall not be delivered to purchasers following the occurrence of a material change in the setup, use or value of the horizontal property regime.

B. For the purposes of this paragraph, a material change in the setup, use or value of a horizontal property regime shall include, without limitation, a change in the number of apartments, a change in the land area, a change in the percentage of ownership of the common elements by any co-owner including the developer as owner of unsold apartments, a change in common elements constituting amenities and a change of the developer whereby a party other than the developer identified in the most recently issued public report succeeds to the rights and interests of such original developer in the horizontal property regime. Upon the request of a developer in a specific case, the ~~Commission board~~ shall determine whether a particular change constitutes a material change in the setup, use or value; provided, however, that the presentation of information to the ~~Commission board~~ in connection with such request shall not relieve the developer of any requirement for filing a notice of intention in the event that the ~~Commission board~~ determines that a material change in the setup, use or value has occurred or will occur.

C. Upon receipt of a notice of intention filed pursuant to this paragraph, the ~~Commission board~~ shall issue a supplementary public report and the developer shall deliver a true copy thereof to all purchasers who have executed but not settled contracts for acquisition of an apartment in the horizontal property regime.

D. The developer may amend a final, substitute or supplementary public report to reflect changes not constituting material changes in the setup, value or use, provided that a copy thereof is filed with the ~~Commission board~~ prior to its delivery to any prospective purchaser.

~~21.7~~ § 9.7. Horizontal property regime constituting conversion condominium.

A. A notice of intention requesting issuance of a final public report on a horizontal property regime which is a conversion condominium shall have attached thereto the information required by Regulations ~~10.4~~ §§ 6.4, ~~10.5(b)~~ [~~6.5,~~] subsections B, C and D, ~~10.6~~ [§ 6.5 and] 6.6 [and] ~~10.7~~ [~~6.7~~] of these regulations to be disclosed in public offering statements for conversion condominiums. Such information shall be prepared by the developer and submitted in a form suitable for presentation in the final public report. The ~~Commission~~ board shall make any revisions in such information, as are necessary to effect full compliance with the applicable regulations and shall incorporate the information into the final public report.

B. A notice of intention requesting issuance of a final public report on a horizontal property regime which is a conversion condominium shall have attached thereto a copy of the notice to be given to tenants pursuant to § 55-79.94(b) of the Code of Virginia. The declarant shall certify that such notice to tenants shall be, at the time of issuance of the final public report, mailed or delivered to each of the tenants in the building or buildings in the horizontal property regime. No such notice shall be mailed or delivered to a tenant prior to the issuance of the final public report on the horizontal property regime.

[CONDOMINIUM REGULATIONS]
[APPENDIX A]

PURCHASER SHOULD READ THIS DOCUMENT FOR HIS OWN PROTECTION

PUBLIC OFFERING STATEMENT

NAME OF CONDOMINIUM:

LOCATION OF CONDOMINIUM:

NAME OF DECLARANT:

ADDRESS OF DECLARANT:

EFFECTIVE DATE OF PUBLIC OFFERING STATEMENT: [_____]

[AMENDED: _____]

[REVISED: _____]

This Public Offering Statement presents information regarding condominium units being offered for sale by the declarant. Virginia law requires that a Public Offering Statement be given to every Purchaser in order to provide full and accurate disclosure of the significant features of the condominium units being offered. The Public Offering Statement is not intended, however, to be all-inclusive. The Purchaser should consult other sources for details not covered by the Public Offering Statement.

The Public Offering Statement summarizes information and documents furnished by the declarant to the Virginia Real Estate Commission Board. The Commission Board has carefully reviewed the Public Offering Statement to ensure that it is an accurate summary but does not guarantee its accuracy. In the event of any inconsistency between the Public Offering Statement and the material it is intended to summarize, the latter will control.

Under Virginia Law a purchaser of a condominium unit is afforded a ten day period during which he or she may cancel the contract of sale and obtain a full refund of any sums deposited in connection with the contract. The ten day period begins running on the contract date or the date of delivery of a Public Offering Statement, whichever is later. The purchaser should inspect the condominium unit and all common areas and obtain professional advice. If the purchaser elects to cancel, he or she must deliver notice of cancellation to the declarant by hand or by United States mail, return receipt requested.

The following are violations of Virginia law and should be reported to the Virginia Real Estate Commission Board, 3600 West Broad Street, 5th floor, Richmond, Virginia 23230:

- a misrepresentation made in the Public Offering Statement
- an oral modification of the Public Offering Statement
- a representation that the Board has passed on the merits of the Condominium units being offered or endorses the condominium.

PURCHASER SHOULD READ THIS DOCUMENT FOR HIS OWN PROTECTION

DATE

_____ Condominium Unit Owners' Association

IRREVOCABLE LETTER OF CREDIT NUMBER _____

Gentlemen:

We hereby establish our Irrevocable Credit in your favor for the account of:

Available by your draft(s) on us at sight up to an aggregate amount of U.S. \$ _____ when accompanied by a certificate signed by a duly authorized officer of _____ Condominium Unit Owners' Association stating that the declarant _____ has not sold or conveyed more than 90% of the units in the condominium and that the declarant has not paid common expense assessments on unsold units.

This letter of credit is being issued to comply with the Virginia Condominium Act as stated in sections 55-79.83 and 55-79.84:1 of the Code of Virginia, as amended, and this letter of credit shall remain in full force and effect for a period of one (1) year from the date hereof and shall automatically renew itself from year to year thereafter unless and until _____ Bank, _____ (City), _____ (State) shall give thirty (30) days prior written notice to _____ Condominium Unit Owners' Association and the Virginia Real Estate Board, by certified mail return receipt requested, of its intent to terminate the same at the expiration of said thirty (30) day period. During said thirty (30) day notice period, this irrevocable letter of credit shall remain in full force and effect.

All drafts drawn under this credit must contain the clause "Drawn under _____ Bank, Irrevocable Letter of Credit Number _____, dated _____."

We hereby agree with the drawers, endorsers, and bona fide holders of drafts drawn under and in compliance with the terms of this credit that the same shall be duly honored upon presentation.

This credit sets forth the terms of our obligation to you and is subject to the Uniform Customs and Practices for Documentary Credits (1983 Revision), International Chamber of Commerce, Publication Number 400, and Article 5 of the Uniform Commercial Code, as adopted in the Commonwealth of Virginia.

Sincerely,

_____ Bank

BY: _____

TITLE: _____

BOND
TO INSURE COMPLETION OF IMPROVEMENTS

KNOW ALL MEN BY THESE PRESENTS THAT _____ of _____, Principal, and _____, Surety, are held and firmly bound unto the _____ Unit Owners' Association, Obligee having its principal office at _____, in the sum of _____ to the payment of such sum, the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has caused to be filed with the Virginia Real Estate Board a Declaration, Bylaws, and Plats and Plans pursuant to the provisions of the Virginia Condominium Act, proposing to register certain property located in the city/county of _____ state of _____ under the Condominium Act as _____ Condominium; and

WHEREAS, the Principal, in accordance with the terms, covenants and conditions of the Declaration of _____ Condominium has an obligation to the Obligee to complete certain improvements in strict conformity with the plans and specifications for the same as described in the Declaration;

NOW THEREFORE, if the Principal shall complete said improvements in strict conformity with the plans and specifications for the same as described in the Declaration, then this obligation shall be void; otherwise, it shall remain in full force and effect in law, subject, however, to the following conditions:

- 1. That no liability shall be attached to the Surety unless, in the event of failure of the Principal to complete said improvements in strict conformity with the plans and specifications for the same as described in the Declaration, the Obligee shall promptly and in any event not later than sixty (60) days after knowledge of such failure, deliver to the Surety written notice, with a statement of the principal facts showing such failure to the date of the notice.
- 2. That in no event shall the Surety be liable for a greater sum than the penalty of this Bond.

IN WITNESS WHEREOF, the said _____ Principal has hereunto affixed his or her signature and seals, and the Surety has caused these presents to be executed by _____ its duly authorized Attorney-in-Fact, this _____ day of _____, 19 _____.

Individual Principal _____ (SEAL) Individual Surety _____ (SEAL)
Corporate Principal _____ Corporate Surety _____
Business Address _____ Business Address _____
Corporate SEAL Corporate SEAL
BY _____ BY _____
TITLE _____ TITLE _____

ACKNOWLEDGEMENT OF PRINCIPAL

STATE OF VIRGINIA, _____ of _____, To Wit:

I, _____, a Notary Public in and for the _____ aforesaid, in the State of Virginia do certify that _____, whose name is signed to the above bond, bearing date on the _____ day of _____, 19 _____, personally appeared before me in my _____ aforesaid, and acknowledge the same.

I further certify that my term of office expires on the _____ day of _____, 19 _____.

Given under my hand this _____ day of _____, 19 _____.

AFFIDAVIT AND ACKNOWLEDGEMENT OF SURETY

STATE OF _____ of _____, To Wit:

I, _____, a Notary Public in and for the _____ aforesaid, in the State aforesaid, do certify that _____ personally appeared before me in my _____ aforesaid and made oath before me that he is _____ of the _____, that he is duly authorized to execute the foregoing bond by virtue of a certain power of attorney of said company, dated _____ and recorded in the Clerk's office of the _____ of _____ in Deed Book No. _____, Page _____ that said power of attorney has not been revoked; that the said company has complied with all requirements of law regulating the admission of such companies to transact business in the State of Virginia; the said company is solvent and fully able to meet promptly all of its obligations, and the said _____ thereupon, in the name and on behalf of the said company, acknowledged the foregoing writing as its act and deed.

My term of Office expires _____, 19 _____.

Given under my hand this _____ day of _____, 19 _____.

Notary Public _____

BOND

TO INSURE PAYMENT OF ASSESSMENTS

KNOW ALL MEN BY THESE PRESENTS THAT _____, of _____, (the "Principal") and _____, (the "Surety"), are held and firmly bound unto _____ Unit Owners' Association having its principal office at _____ (the "Obligee"), in the sum of Ten Thousand Dollars (\$10,000) to the payment of such sum, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assignees jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas, the Principal has caused to be filed with the Virginia Real Estate Commission a Declaration, Bylaws and Plats and Plans pursuant to the Virginia Condominium Act, proposing to register certain property located in the City/County of _____ under the Condominium Act as _____ Condominium; and

WHEREAS, the Principal, in accordance with the terms, covenants and conditions of the Declaration, Bylaws and Plats and Plans of _____ Condominium and pursuant to the provisions of Section 55-79.83 of the Code of Virginia, as amended, has an obligation to the Obligee to pay all common expenses assessed on condominium units owned by the Principal;

NOW THEREFORE, if the Principal shall save harmless the Obligee from any pecuniary loss resulting from the breach of any of the terms, covenants and conditions of the obligation to

pay common expenses assessed against condominium units owned by the Principal in _____ Condominium, then this obligation shall be void; otherwise, it shall remain in full force and effect in law; provided, however, that this bond is issued subject to the following conditions and privileges:

1. That no liability shall be attached to the Surety unless, in the event of any default on the part of the Principal in the performance of any of the terms, covenants and conditions of its obligation to pay, the Obligee shall promptly and in any event not later than thirty (30) days after knowledge of such default, deliver to the Surety written notice, with a statement of the principal facts showing such default to the date of the notice.
2. That, in no event, shall the Surety be liable for a greater sum than the penalty of this Bond.
3. (a) That the Surety shall not be liable for damages to the person of anyone, under, or by authority of, in a statutory provision for damages or compensation to any employee, or otherwise; and
 (b) That the Surety shall not be obligated to furnish any bond or obligation, other than the one executed.
4. When the Principal has sold and conveyed condominium units in _____ Condominium so that Principal owns no more than _____ of the condominium units in _____ Condominium upon which the Principal is liable for the payment of common expenses to Obligee this Bond shall become null and void and no further liability shall be attached to the Surety.

IN WITNESS WHEREOF, The said _____
Principal has hereunto affixed his or her signature and seals, and the Surety has caused
these presents to be executed by: _____, its duly authorized
Attorney-in-Fact, this _____ day of _____, 19____.

Individual Principal

Individual Surety

(Seal)

(Seal)

Corporate Principal

Corporate Surety

Business Address

Business Address

Corporate Seal

Corporate Seal

By _____

By _____

Title _____

Title _____

ACKNOWLEDGEMENT OF PRINCIPAL

STATE OF VIRGINIA,

_____ of _____, To Wit:

I, _____, a Notary Public in and for the _____
_____ aforesaid, in the State of Virginia, do certify
that _____, whose name is signed to the above
bond, bearing date on the _____ day of _____, 19____, personally
appeared before me in my _____ aforesaid, and
acknowledge the same.

I further certify that my term of office expires on the _____ day of _____,
19____.

Given under my hand this _____ day of _____, 19____.

Notary Public

AFFIDAVIT AND ACKNOWLEDGEMENT OF SURETY

STATE OF _____

_____ of _____, To Wit:

I, _____, a Notary Public in and for the _____
_____ aforesaid, in the State aforesaid, do certify that

_____ personally appeared before me in my _____
 _____ aforesaid and made oath that he is _____
 _____ of the _____, that he is duly authorized
 to execute the foregoing bond by virtue of a certain power of attorney of said company,
 dated _____, and recorded in the Clerk's office of the _____
 _____ of _____ in Deed Book
 No. _____, Page _____, that said power of attorney has not been revoked; that
 the said company has complied with all requirements of law regulating the admission of such
 companies to transact business in the State of Virginia; the said company is solvent and
 fully able to meet promptly all of its obligations; and the said _____
 thereupon, in the name and on behalf of the said company, acknowledged the foregoing writing
 as its act and deed.

My term of Office expires _____, 19____.

Given under my hand this _____ day of _____
 19____.

 Notary Public

For Office Use Only:	
<input type="checkbox"/>	<input type="checkbox"/>
Check No.	Date
<input type="checkbox"/>	<input type="checkbox"/>

DEPARTMENT OF COMMERCE
 3600 WEST BROAD STREET
 RICHMOND, VIRGINIA 23230



Make checks payable to
 "Treasurer of Virginia"

please print or
 type clearly

**APPLICATION FOR REGISTRATION
 OF CONDOMINIUM**

In accordance with §55-79.89, Code of Virginia, 1950, as amended, the undersigned requests registra-
 tion of the following styled condominium and, herewith, submits a registration fee in the
 amount of _____ (\$_____).

REGISTRATION NO. _____ Declarant _____

Date _____ by _____
 Authorized Officer or Agent

I. NAME OF PROJECT _____

II. ADDRESS OF PROJECT _____

III. DECLARANT:

A. NAME OF DECLARANT _____

B. ADDRESS OF PRINCIPAL PLACE OF BUSINESS OF DECLARANT:

(Telephone Number: AREA CODE _____ NUMBER _____)

EXHIBIT A: If Declarant is a corporation, attach copy of Certificate of Incorporation or
 Certificate of Authority to Transact Business in Virginia issued by State Corporation Com-
 mission. If Declarant is a partnership or joint venture, attach recording data for any partner-
 ship or joint venture agreement recorded. Otherwise, attach a certified statement of explana-
 tion. (Mark "EXHIBIT A.")

C. ADDRESS, TELEPHONE NUMBER AND NAME OF MANAGER OF EACH OF-
 FICE OF DECLARANT LOCATED WITHIN THE BOUNDS OF VIRGINIA:

(Address) (Phone) (Manager)

(If additional space is required, complete on separate sheet of paper, attach and mark
 "Schedule III C.")

D. Name, address and principal occupation for past five years of every officer of the Declarant or person occupying a similar status performing similar functions: the extent and nature of his interest in the Declarant or subject condominium as of the date of filing of this application. (List principal officer first.)

Name (Principal Officer): _____ Title _____
Residence Address: _____
Principal occupation for past five years: _____
Extent and nature of interest in Declarant: _____
Role in development of condominium: _____

(Continue to extent necessary in similar format on separate sheet of paper, attach and mark "Schedule III D.")

E. If other than the persons identified in "D" above, identify the principal officers of the Declarant and provide the same information requested in "D" other than their roles in the development of the condominium. (Attach separate sheet and mark "Schedule III E.")

F. List the name and address and the type and extent of interest of each holder of any ownership interest of 10% or more in the Declarant. If any holder is other than an individual, name the type of entity. (Attach separate sheet and mark "Schedule III F.")

G. If the Declarant does not entirely own the project, list the name and address of each individual or entity having an ownership interest of 10% or more in the condominium project (Attach separate sheet and mark "Schedule III G.")

H. List states or jurisdictions in which Declarant has filed application for registration or similar document relating to this or any other condominium project and date of each such filing:

(Continue to extent necessary on separate sheet of paper, attach and mark "Schedule III H.")

I. If the Declarant is an organization, state whether the Declarant was organized for the sole purpose of developing the condominium and, if not, provide a general description of the other activities engaged in by the Declarant. Provide a brief history of the Declarant including formation, merger, subsidiary relationships and the like. (Attach separate sheet and mark "Schedule III I.")

J. State whether the Declarant owns any assets other than the condominium property and, if so, provide a general description of such assets.

(Continue to extent necessary on separate sheet of paper, attach and mark "Schedule III J.")

IV. VIOLATIONS, BANKRUPTCIES, AND LITIGATIONS:

A. State whether any of the individuals or entities named in III above or entities in which individuals named in III above were principals have been subject to an adverse judgment or decree of a court or order of an administrative agency, have been indicted or convicted by any court for violation of a federal, state, local or foreign country law or regulation, or have been disciplined, disbarred or suspended by any governmental body or agency in connection with activities relating to condominium sales, land sales, land investments, security sales, construction or sale of homes or home improvements or any similar or related activity. State also whether any such individuals or entities are currently defendants or respondents, either primarily or by counterclaim or cross claim, in any action which could result in a judgment, decree, order, indictment, conviction, disciplining, disbarment or suspension contemplated by the preceding sentence. (If so, on a separate sheet marked "Schedule IV A" describe the action, including the names of the parties, the type and date of the action, and the status or disposition thereof.)

B. State whether, during the preceding ten years, the Declarant or any parent or predecessor organization, and, during the preceding three years, any individual identified in III above, has been adjudicated a bankrupt or has undergone any proceeding for the relief of debtors. If so, describe the action on a separate sheet marked "Schedule IV B."

C. List all current litigation, other than that described in "A" and "B" above, of which the Declarant is aware which, individually or in the aggregate, may have a material effect upon the Declarant and/or project. Describe each action in detail, identifying the court of record, action number, and full identity of the parties involved. (Attach separate sheet and mark "Schedule IV C.")

V. ENCUMBRANCES:

A. List in order of priority mortgages or deeds of trust against property giving date of instrument, lender secured, amount and purpose of loan and recording data including date of recordation:

(1) _____
(2) _____
(3) _____
(4) _____
(5) _____
(6) _____
(7) _____

B. List in order filed, mechanic's and materialman's liens against property stating identity of contractor, subcontractor or supplier secured, amount claimed and recording data including date of recordation:

(1) _____
(2) _____
(3) _____
(4) _____
(5) _____
(6) _____
(7) _____

C. Will obligations secured by above encumbrances be paid and satisfied of record at or prior to conveyance of any affected condominium unit? Identify encumbrances not to be paid and satisfied of record.

(1) _____
(2) _____
(3) _____
(4) _____
(5) _____
(6) _____
(7) _____

D. With respect to each obligation not to be paid and satisfied as indicated in "C" above, attach copy of document(s), if any, embodying or setting forth commitment of lienholder to release lien at or prior to conveyance of affected unit, provide statement of explanation. (Mark document "Exhibit V D (1), (2), (3), etc." Indicate location within each document of release provisions.)

(2) Provide the information requested below with regard to proposed improvements (define in REG. 16-1(c) of the Virginia Real Estate Commission Rules and Regulations):

- (a) Anticipated cost of completion of improvements: _____
- (b) Contract price, if any, with general contractor: _____
- (c) Source of construction funds and amount from each source: _____
- (d) If construction funds are or will be borrowed, state amount(s) for which loan commitment has been obtained from construction lender and amount(s) of loan proceeds not yet disbursed: _____
- (e) Attach copy of construction loan commitment. (Mark "EXHIBIT VIII C (2)(e).") _____
- (f) State whether construction loan has been funded and, if not, state reasons: _____
- (g) If any construction loan is to be obtained or if any construction funds are to be obtained by a capital contribution to the Declarant, provide a financial statement or other evidence of the availability to such lender or contributor of the funds to be lent or the capital to be contributed. (Mark "EXHIBIT VIII C (2)(g).") _____
- (h) If any construction funds are to be obtained other than through a construction loan or a capital contribution, provide a financial statement or other evidence of availability to the Declarant of the necessary funds. (Mark "EXHIBIT VIII C (2)(h).") _____

D. Taxes and Assessments:

- (1) Give details of real estate tax, personal property tax or other tax or special assessment on property: _____
- (2) Give details of any proposed special tax or assessment which affect this condominium: _____
- (3) Will unit purchaser be required to pay any property taxes or special assessments to any municipal or other governmental agency after signing the contract to purchase and prior to or at time of delivery of executed deed? If so, explain: _____

VI. TERMS OF OFFERING:

- A. Type of financing available to purchaser: _____
- B. Minimum cash down payment required: _____
- C. Type of deed for conveying to purchaser: _____

VII. TITLE TO LAND:

- A. Name and address of current owner of land: _____
(If Declarant is not record owner of land, attach a copy of any contract he has executed to purchase the land, any option he holds for purchase of the land or any lease under which he holds the land. Mark "Schedule VII A.") _____
- B. Recording reference for current deed for land: _____
- C. **EXHIBIT B.:** Attach a current title opinion issued within the preceding thirty days by a licensed attorney who is not a salaried employee, officer or director of the Declarant or owner showing the condition of the title to the condominium including all encumbrances against it. If the legal description of the land contained in the opinion is not identical to the legal description of the submitted land contract in the condominium instruments, attach also a certification executed by a registered land surveyor or a licensed attorney that the submitted land described in the condominium instruments is the same land as or lies wholly within the boundaries of the land described in the opinion. (Mark "EXHIBIT B.") _____

VIII. BUILDING STATUS:

- A. Are all improvements depicted on plats or a site plan filed as part of EXHIBIT B hereto completed? _____
- B. If answer to "A" above is affirmative, give approximate completion date and state that all current zoning and other government regulations concerning such improvements have been complied with or attach a statement giving particulars of any instance in which such regulations have not been met. (Mark such statement "Schedule VIII B.") _____
- C. If answer to "A" above is negative:
 - (1) Give the status of the following matters including the dates of any approvals or applications if not approved:
 - (a) Zoning compliance: _____
 - (b) Site plan: _____
 - (c) Building permit: _____
 - (d) Site preparation and building construction: _____

- F. Will unit purchaser be required to pay any assessments due or any other payments to unit owner's association, the developer or any other organization or entity for the maintenance of common facilities or other purposes after signing contract to purchase and prior to or at time of delivery of executed deed? If so, explain:

IX. INSURANCE:

- A. List types and amounts of insurance to be carried by unit owners association, or the executive organ or managing agent on behalf of such association.

- B. Are minimum ratings specified for companies providing insurance? If so, specify:

X. ADDITIONAL EXHIBITS:

EXHIBIT C. Attach copies of the instruments which will be delivered to unit purchaser to evidence his interest in the unit and of contracts and other agreements which a purchaser will be required to agree to or sign. Attach also a copy of any non-binding reservation agreement used or to be used. (Mark "EXHIBIT C.")

EXHIBIT D. Attach a narrative description of the promotional plan for disposition of condominium units and include (1) the identity of the real estate broker(s), if any, who will market the condominium units in Virginia and/or a statement that marketing of condominium units in Virginia will be conducted by the Declarant's regular employees; (2) the Declarant's plan for use of advertising media and distribution of offering literature in Virginia; (3) the Declarant's plan for making direct contact with individual prospective purchasers in Virginia, and (4) the Declarant's plan for use of model units or other devices by which prospective purchasers will be acquainted with the physical features of the condominium units. (Mark "EXHIBIT D.") Attach copies of all offering literature not previously filed pursuant to REG. 17.4(c) of the Virginia Real Estate Commission Rules and Regulations. (List each item on separate sheet designating it as "EXHIBIT D(1), (2), (3), etc." with items attached thereto appropriately marked.)

EXHIBIT E. Attach for review plats and plans which comply with §§55-79.58 and 55-79.89(a)(10), Code of Virginia, 1950, as amended and REG. 16.2 of the Virginia Real Estate Commission Rules and Regulations. Alternatively, attach for review materials which comply with REG. 16.2(c) of the Virginia Real Estate Commission Rules and Regulations.

EXHIBIT F. Attach with all required and permitted exhibits, a copy of (1) a proposed public offering statement complying with REG. 18.1, through REG. 18.27, and, if applicable, REG. 19.1, through REG. 19.8 of the Virginia Real Estate Commission Rules and Regulations, (2) a substituted disclosure document complying with REG. 18.26 of the Virginia Real Estate Commission Rules and Regulations, or (3) a prospectus complying with REG. 18.27 of the Virginia Real Estate Commission Rules and Regulations. (Mark "EXHIBIT F.")

AFFIDAVIT

STATE OF _____)
) ss.
 COUNTY OF _____)

_____, being duly sworn deposes and says: That the statements herein contained, and the documents herewith submitted are full, true and complete as of the date of execution hereof, and that he is the Declarant of the condominium project for which application for registration is being made, or that he is the officer or agent authorized by the Declarant to affix his signature hereto.

Affiant further deposes and says: That nothing done or planned in connection with the marketing of the condominium units for which application for registration is hereby made is or will be, to the best of his knowledge, contrary to the provisions of § 59.1-44, Code of Virginia, 1950, as amended, or REG. 17.1 through REG. 18.4 of the Virginia Real Estate Commission Rules and Regulations.

 Authorized Signature

Subscribed and sworn to before me this _____ day of _____ 19____ at

 City or County and State

 Officer Administering Oath

Notary Public in County/City of _____ State of _____

My Commission expires _____

PENALTIES

§55-79.103. Penalties — Any person who willfully violates any provision of §§55-79.87, 55-79.88, 55-79.89, 55-79.90, 55-79.93, 55-79.94, 55-79.95, or any rule adopted under or order issued pursuant to §55-79.98, or any person who willfully in an application for registration makes any untrue statement of a material fact or omits to state a material fact shall be guilty of a misdemeanor and may be fined not less than one thousand dollars or double the amount of gain from the transaction, whichever is the larger but not more than fifty thousand dollars; or he may be imprisoned for not more than six months; or both, for each offense.

EXHIBIT G: Attach a copy of any management, employment or other contract, lease or agreement currently in effect or being negotiated affecting the use, maintenance or access of all or part of the condominium. If any such contract, lease or agreement is being negotiated, indicate status of negotiations. Include statement of any relationship which exists between the Declarant and the parties to such contracts, leases or agreements. (Mark "EXHIBIT G.")

EXHIBIT H: Attach the irrevocable appointment of the Real Estate Commission to receive service of any lawful process in any non-criminal proceeding arising under provisions of §§55-79.39 through 55-79.103, Code of Virginia, 1950, as amended, against the Declarant or his personal representative using the form provided for this purpose by the Commission. (Mark "EXHIBIT H.")

EXHIBIT I: If a substituted disclosure document is attached as **EXHIBIT F**, attach an outline setting forth the manner in which the substituted disclosure document complies with the disclosure requirements of the Condominium Act. The outline shall be sufficiently detailed to indicate the location within the substituted disclosure document of the various categories of information that, in a public offering statement, would be required to be disclosed by §§55-79.90(a) and, if applicable, 55-79.94(a), Code of Virginia, 1950, as amended. The outline shall contain the following statement: "In the opinion of the undersigned, the substituted disclosure document prepared for filing with the Virginia Real Estate Commission in connection with the application for registration of [name and location of condominium] complies with REG. 18.26 of the Virginia Real Estate Commission Rules and Regulations." The statement shall be executed by an attorney licensed to practice in Virginia. (Mark "EXHIBIT I.")

EXHIBIT J: If the condominium is a conversion condominium, attach a copy of any inspection report made by or for the Declarant in connection with a determination of the matters required to be disclosed by §§55-79.94(a)(4), Code of Virginia, 1950, as amended. (Mark "EXHIBIT J.")

EXHIBIT K: If the condominium is a conversion condominium, attach a notice and certified statement as required in §§55-79.94(c), Code of Virginia, 1950, as amended. (Mark "EXHIBIT K.")

EXHIBIT L: Attach bonds required to be filed pursuant to Virginia Code §§55-79.58:1, 55-79.84:1.

NOTICE

Section 55-79.89(c), Code of Virginia, 1950, as amended, provides that the Declarant shall immediately report any material changes in the information contained in an Application for Registration to the Commission.

EXHIBIT H

IRREVOCABLE APPOINTMENT OF THE VIRGINIA REAL ESTATE COMMISSION TO RECEIVE SERVICE OF ANY LAWFUL PROCESS IN ANY NONCRIMINAL PROCEEDING ARISING UNDER PROVISIONS OF SECTIONS 55-79.39 THROUGH 55-79.103, CODE OF VIRGINIA, 1950, AS AMENDED.

Name of Applicant: _____

Address of Applicant: _____

WHEREAS, the above-named Applicant has made application for registration of a condominium project known as _____ under provisions of Section 55-79.89, Code of Virginia, 1950, as amended.

WHEREAS, under provisions of said Section, it is required that each and every applicant for registration file an Irrevocable Appointment of the Virginia Real Estate Commission to Receive Service of Any Lawful Process in Any Noncriminal Proceedings Arising Incident to Any Condominium Submitted for Registration by the Applicant with the Commission.

NOW, THEREFORE, I, the above-named applicant or authorized agent for the applicant, hereby execute and file with the Secretary of the Virginia Real Estate Commission on behalf of the Applicant full and irrevocable authority to receive service of any lawful process in any noncriminal proceeding arising under Sections 55-79.39 through 55-79.103, Code of Virginia, 1950, as amended, in the name of the applicant, either individually, or co-partners or members of the applicant in any of the courts of record of the State of Virginia, and it is hereby stipulated and agreed that such service of such process on said Secretary shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant, its partners and members personally within the State of Virginia.

IN WITNESS WHEREOF, I _____, have hereunto signed my name this _____ day of _____, 19____.

Applicant

by _____
Authorized Agent or Officer

Subscribed and sworn to before me this _____ day of _____, 19____.

at _____
(City or county and state)

Officer Administering Oath

Notary public in County/City of _____ State of _____

My commission expires _____

* * * * *

Title of Regulation: VR 585-01-3. Time-Share Regulations.

Statutory Authority: § 55-396 A of the Code of Virginia.

Effective Date: July 15, 1987

Summary:

Amendments to the regulations generally include revisions to the rules for registration application submission, marketing activities, preparation of the public offering statement and disclosures therein, and post registration provisions.

Amendments also include provisions for registration application fees. Statutory amendments specifically granted such authority to the board. New regulations have been adopted for the registration of time-share exchange companies. Again, these regulations reflect statutory amendment.

All amendments are consistent with statutory disclosure requirements and board policy.

VR 585-01-3. Time-Share Regulations.

SECTION 22

PART I. TIME-SHARE REGULATIONS.

GENERAL.

22-1 § 1.1. Purpose.

These time-share regulations govern the exercise of powers granted to and the performance of duties imposed upon the Virginia Real Estate Commission Board by the Virginia Real Estate Time-Share Act, § 55-360 et seq. of the Code of Virginia. Such regulations apply to all time-share projects, wherever situate, which apply to said Act by virtue of § 55-361, unless exempt pursuant to § 55-395.

22-2 § 1.2. Definitions and explanation of terms.

The definitions provided in § 55-362 of the Code of Virginia, as they may be supplemented herein, shall apply to these time-share regulations. Each reference in these regulations to a "developer", "purchaser", and "time-share owner" or to the plural of those terms shall be deemed to refer, as appropriate, to the masculine and the feminine, to the singular and the plural and to natural persons and organizations.

22-3 § 1.3. Time-share advisory committee.

A time-share advisory committee, appointed by the Commission board, shall advise the Commission board

in the exercise of its powers and the performance of its duties and under the Virginia Real Estate Time-Share Act and shall function as a subordinate of the Commission within the meaning of Virginia Code § 9-6.14.4(g) in such cases as the Commission may direct.

22-4 § 1.4. Property registration administrator.

A Time-Share property registration administrator, employed and designated as such by the Director of the Department of Commerce, shall function as a subordinate of the Commission board within the meaning of § 9-6.14.4(g) of the Code of Virginia for the purpose of carrying out the routine daily operations of the Commission board with respect to time-share regulations, including, without limitation, the entry of any orders provided for in these time-share regulations, the issuance of public reports and the administration of oaths and affirmations in connection with investigations or other proceedings. The Time-Share property registration administrator shall act as secretary of the time-share advisory committee.

SECTION 23

PART II. APPLICATION FOR REGISTRATION.

23-1 § 2.1. Application for registration.

Application for registration of time-share units shall be filed at the offices of the Commission board. The application shall contain all of the documents and information required by § 55-391.1 of the Code of Virginia. Each application for registration shall be submitted on the standard application form a specimen of which is appended as Appendix A to these regulations and made a part hereof, which is furnished by the board.

§ 2.2. Form of the application; submission of documents.

The board may establish specific guidelines which establish the form for preparation of [time-share documents the application for registration]. These guidelines shall set forth reasonable requirements [for paper size, binding and organization] which assure uniformity in [the manner] disclosures [are] made to prospective purchasers.

23-2 § 2.3. Procedure upon receipt of application for registration.

A. Upon receipt of an application for registration, the Commission board shall issue a "notice of filing" and shall within twenty (20) days of receipt of the application conduct an inquiry and investigation review the application and supporting documents to determine whether the prerequisites for registration set out in § 55-391.1 of the Code of Virginia have been met. In making such a determination, the Commission board shall take cognizance of any may rely upon reliable information

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concerning the developer of the project or the project coming to the Commission's board's attention. However, this does not excuse the developer's obligation to complete the registration application accurately and truthfully.

B. If the Commission board determines that any prerequisite for registration has not been met, the Commission board shall so notify the developer prior to the date of the effectiveness of the registration. This notification shall serve to suspend the effective date of registration until the twentieth day after the developer files additional or supplemental information satisfactory to the Commission .

Upon receipt of an application for registration not in proper form, the Commission board shall return the application to the developer with a statement specifying the deficiencies in its form; provided, however, that, if the Commission board has reason to believe that the application may readily be put into proper form, it may retain the application and notify the developer of the steps that must be taken to put the application in proper form.

C. At such time as the Commission board affirmatively determines that the prerequisites for registration have been met, the Commission board shall so notify the developer.

§ 2.4. Filing fees.

1. The filing fee for an original application for registration shall be \$1,500.

2. The filing fee for an amendment to the application for registration adding a phase or phases to the time-share project shall be \$250.

3. The filing fee for the annual report filed by the developer shall be \$500.

4. The filing fee for an original application for registration of an exchange company shall be \$1,000. The filing fee for the annual report of an exchange company shall be \$250.

5. Unless identified above, no other filing fee shall be assessed.

PART III. REGISTRATION.

§ 3.1. Prerequisites for registration.

The following provisions are prerequisites for registration and are supplementary to the provisions of § 55-391.1 of the Code of Virginia.

1. The developer shall own or have the right to acquire an estate in the land constituting or to constitute the time-share project which is of at least

as great a degree and duration as the estate to be conveyed in the time-shares.

2. The time-share [~~instruments instrument~~] must be in a form which complies with the requirements of the Act and sufficient to bring a time-share [program or project] into existence upon recordation of the [~~instruments instrument~~].

3. The developer shall have filed with the board evidence of its ability to complete all proposed improvements [which are committed at that time] to the time-share project. Such evidence shall consist of the bond or letter of credit as required by § 55-386 of the Code of Virginia. If such bond or letter of credit is voided subsequent to registration, effectiveness of registration shall cease immediately.

4. The current and planned marketing activities of the developer shall comply with §§ 59.1-44 and 55-374.1 of the Code of Virginia, and [with] §§ 5.1 and 5.2 of these regulations.

5. The developer shall have filed with the board (i) a proposed public offering statement which complies with § 55-374 of the Code of Virginia and §§ 5.1 through 5.20 of these regulations and, if applicable §§ 6.1 through 6.7; or (ii) a substitute public offering statement which complies with § 5.21 of these regulations.

[6. The developer shall file a narrative description of the promotional plan for the time-share development with the application for registration.]

SECTION 24

PART IV. MARKETING.

24.1 § 4.1. Preregistration offers prohibited.

A. No developer or individual or entity acting on behalf of the developer shall offer or dispose of a time-share prior to its registration.

B. No preregistration time-share marketing activity shall be deemed an offer unless, by its express terms, it induces, solicits or encourages a prospective purchaser to execute a contract of sale for a time-share or perform some other act which would create or purport to create a legal or equitable interest in a time-share other than a security interest in or a nonbinding reservation of the time-share.

24.2 (a) Time share marketing activities shall include any act whereby a person is given an opportunity to acquire a time share. Such act may be personal, by radio, television, newspaper, magazine, mail or by advertisement. A promise, assertion, representation or statement of fact or opinion made in connection with a time share marketing

activity may be oral, written or graphic.

(b) No sales agent, whether an employee of, affiliate of, or independent contractor working for a developer shall engage in any time share marketing activity unless registered with the Commission as required by Virginia Code § 55-300 B.

(c) The developer shall maintain records of the names and addresses of current independent contractors employed by it for time-share sales purposes, and make such records available to the Commission upon request.

24.3 § 4.2. Time-share marketing standards.

A. No promise, assertion, representation or statement of fact or opinion in connection with a time-share marketing activity shall be made which is false, inaccurate or misleading by reason of inclusion of an untrue statement of a material fact or omission of a statement of a material fact relative to the actual or intended characteristics, circumstances or features of the time-share project or a time-share.

B. There shall be no indication that an improvement will be built or placed in the time-share project unless the developer has sufficient financial assets and a bona fide intention to complete the improvement as represented.

C. No promise, assertion, representation or statement of fact or opinion made in connection with a time-share marketing activity and relating to a time-share project not registered shall, by its express terms, induce, solicit or encourage a prospective purchaser to leave Virginia for the purpose of executing a contract for sale or performing some other act which would create or purport to create a legal or equitable interest in the time-share other than a security interest in a non-binding reservation of the time-share, when to do so would circumvent the provisions of this Act.

24.4 § 4.3. Offering literature.

A. "Offering literature" is any written promise, assertion, representation or statement of fact or opinion made in connection with a time-share marketing activity mailed or delivered directly to a prospective purchaser and which originates in this Commonwealth.

B. Offering literature mailed or delivered prior to the effectiveness of the registration of the time-share project which is the subject of the offering literature shall bear a conspicuous legend containing the substance of the following language:

[Identity of the time-share project] has not been effectively registered with the Virginia Real Estate Commission board. A time-share may be reserved on a nonbinding reservation agreement, but no contract of sale may be entered prior to the effectiveness of the developer's registration. Any deposit given at the time

of the reservation is refundable at the purchaser's option [at any time until the period during which any right of cancellation expired] and must be placed in an escrow account with a financial institution having trust powers within the Commonwealth of Virginia, whose accounts are insured by a governmental agency or instrumentality.

[C.] A copy of every item of offering literature other than a personal communication shall be filed with the Commission prior to use. A personal communication is one directed to a prospective purchaser which has not been and is not intended to be directed to any other prospective purchaser. [The developer shall file a narrative description of the promotional plan for the time-share development with the registration application.]

24.5 Exemption from marketing regulations. Nothing in Regulations 24.1, 24.2, 24.3 (b) and (c), and 24.4 shall apply in the case of a time share project exempted from registration by Virginia Code § 55-305.

SECTION 25

PART V.

PUBLIC OFFERING STATEMENT.

25.1 § 5.1. Scope of public offering statement.

The provisions of this section outlining the contents of the public offering statement supplement the requirements of § 55-374 of the Code of Virginia. A public offering statement shall make disclosures relative to a single offering and to the entire time-share program in which the time-shares being offered are located. Not more than one version of a public offering statement shall be [authorized for use used] at any given time with respect to a particular time-share program.

25.2 Offering defined. - As used in these time share regulations, the word "offering" shall mean any act of the developer to sell, solicit, induce or advertise, whether by radio, television, newspaper, magazine or mail, whereby a person is given an opportunity to acquire a time-share.

25.3 § 5.2. Preparation and distribution of public offering statement.

A. The public offering statement shall be clear and legible with pages numbered sequentially. Only a blank cover or a cover bearing identifying information may be used. Except as elsewhere provided, no portion of the public offering statement may be underscored, italicized or printed in larger, heavier or different color type than the remainder of the public offering statement. The first page (s) of the public offering statement shall conform to the specimen appended as Appendix B A to these regulations and made a part hereof.

B. The developer may include as part of the public offering statement a receipt page printed in such a way

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that the developer may obtain verification that a prospective purchaser has received the public offering statement. The receipt page shall include the effective date of the public offering statement as well as a place for the date of delivery and signature lines for the [prospective] purchaser [~~and~~ . The] authorized receipt page in proper form [, duly executed,] shall be evidence that the public offering statement was delivered.

C. The developer shall distribute a current public offering statement to any prospective purchaser before such purchaser executes a contract to purchase a time-share.

25-4 § 5.3. Nature of information to be included.

A. The provisions of § 55-374 .1 of the Code of Virginia and Regulations 24-1 §§ 5.1 through 26-6 6.6 of these regulations shall be strictly construed to promote full and accurate disclosure in the public offering statement and, thereby, to protect the interests of purchasers.

B. The requirements for disclosure are not exclusive. In addition to expressly required information, the developer shall disclose all other available information which may reasonably be expected to affect the decision of the ordinarily prudent purchaser to accept or reject the offer of a time-share. The developer shall disclose any additional information necessary to make the required information not misleading. No information may be presented in such a fashion as to obscure the facts, to encourage a misinterpretation of the facts or otherwise to mislead a purchaser.

C. No information shall be incorporated by reference to an extrinsic source which is not readily available or already known to an ordinary purchaser. Whenever required information is not known or not reasonably available, such fact shall be stated in the public offering statement with a brief explanation. Whenever special circumstances exist which would render required disclosure inaccurate or misleading, the required disclosure shall be modified to accomplish the purpose of the requirement or the disclosure shall be omitted, provided that such modification or omission promotes full and accurate disclosure.

D. Disclosure shall be made of pertinent facts, events, conditions or other states of affairs which the developer has reason to believe will occur or exist in the future or which the developer intends to cause to occur or to exist in the future. Disclosure relating to future facts, events, or conditions shall be limited by the provisions of subparagraph subsection F hereof.

E. The public offering statement shall be as brief as is consistent with full and accurate disclosure. In no event shall the public offering statement be made so lengthy or detailed as to discourage close examination. [Duplication and unnecessary legal language is discouraged.]

F. Expressions of opinion in the public offering statement shall be deemed inconsistent with full and accurate disclosure unless there is ample foundation in fact for the opinion; provided, however, that this sentence shall not affect in any way the developer's duty to set forth a projected budget for the time-share program's operation.

G. Except for brief excerpts therefrom, the public offering statement shall not incorporate verbatim portions of the time-share [instruments instrument] or other documents. The purchaser's attention may be directed to pertinent portions of the [instruments instrument] or documents attached to the public offering statement which are too lengthy to incorporate verbatim.

H. Maps, photographs and drawings may be utilized in the public offering statement, provided that such utilization promotes full and accurate disclosure.

25-5 § 5.4. Readability.

The public offering statement shall be clear and understandable. *The public offering statement may be written in narrative, question and answer, or other form selected by the developer so long as all information required by the Real Estate Time-Share Act and these regulations is included in a clear and understandable manner.* Determination as to compliance with the standards of this paragraph are within the exclusive discretion of the ~~Commission~~ board .

25-6 § 5.5. Summary of important considerations.

A. Immediately following the first page and before the table of contents , the public offering statement shall include a summary of important considerations consisting of particularly noteworthy items of disclosure. Certain summary statements are required by subsections D and E hereof. Other summary statements may be proposed by the ~~declarant~~ developer or included by order of the ~~Commission~~ board for the purpose of reinforcing the disclosure of significant information not otherwise included in the summary of important considerations. No summary statement shall be included for the major purpose of enhancing the sales appeal of the time-shares.

B. The summary shall be titled as such and shall be introduced by the following statement: "Following are important matters to be considered in acquiring a time-share. They are highlights only. The narrative sections should be examined to obtain detailed information." Each summary statement shall include a reference to pertinent portions, if any, of the public offering statement for details respecting the information summarized. Each summary statement, exclusive of any reference to other portions of the public offering statement, shall be limited to no more than three sentences except that the ~~Commission~~ board may, by order, permit or require additional sentences.

C. Whenever the ~~Commission~~ board finds that the

significance to purchasers of certain information requires that it be disclosed more conspicuously than by regular presentation in the summary of important considerations, it may provide, by order, that a summary statement of the information shall be underscored, italicized or printed in a larger or heavier type than the remainder of the public offering statement.

D. In the case of a TIME-SHARE ESTATE PROGRAM, summary statements shall be made of the substance of the following facts and circumstances. Specific information shall be substituted for the general information indicated by brackets. Appropriate modifications shall be made to reflect facts and circumstances varying from those indicated herein:

[1. *Purchasers have a nonwaivable right to cancel the purchase contract for seven calendar days after execution of the purchase contract or receipt of a current public offering statement, whichever is later. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded within 45 days after receipt of the notice of cancellation. If the purchaser elects to cancel this contract, the purchaser shall do so by hand-delivering the cancellation notice or mailing it by certified United States mail, return receipt requested, to the developer or to his agent for service of process, [name and address of agent for service of process]*.

[~~1~~. 2.] The time-share estate program will be governed by a time-share owners' association formed under the [Virginia Non-Stock Corporation Act or law of the situs state as appropriate] . A time-share owner may have voting rights as outlined in Articles of Incorporation of the association or bylaws thereof and such owner will be bound by all decisions of the association including those with which he disagrees.

[~~2~~. 3.] Decisions affecting the business and affairs of the time-share estate owners' association shall be made by its [governing body, generally its] board of directors or, in most instances, an executive committee thereof.

[~~3~~. 4.] The expenses of operating the time-share estate owners' association will be paid on the basis of a [periodic] budget. Each time-share estate owner will pay a periodic [assessment amount and may be required to pay special assessments]. A time-share estate owner cannot reduce the amount of his [assessment financial obligation] by refraining from use of his time-share or the project's facilities.

[~~4~~. 5.] If a time-share estate owner fails to pay [an assessment a financial obligation] when due, the time-share estate owners' association may levy a lien against his time-share. Certain other penalties may be applied.

[~~5~~. 6.] The developer may [pay assessments make

payments] on unsold time-shares in addition to [or in lieu of] time-share estate occupancy expenses.

[~~6~~. 7.] The developer, its principals, officers, directors, partners, or trustees have [not] undergone a debtor's relief proceeding.

[~~7~~. 8.] The developer will retain control of the time-share estate owners' association until at least the end of the "Developer Control Period." See § 55.369 of the Code of Virginia.

[~~8~~. 9.] A managing agent may perform routine operations of the time-share estate owners' association. The managing agent is [affiliated with] the [developer, a director or an officer of the time-share estate owners' association].

[~~9~~. 10.] The developer may rent [sold] unsold time-shares. The right of a time-share estate owner to rent his time-share is [not] subject to restrictions.

[~~10~~. 11.] The right of the time-share estate owner to resell his time-share is [not] subject to restrictions.

[~~11~~. 12.] The time-shares are [not] restricted to residential use.

[~~12~~. 13.] The time-share estate owner may not alter the structure or exterior of the unit in which his time-share is located.

[~~13~~. 14.] The time-share estate owners' association will obtain certain insurance benefiting the time-share owner, but the time-share estate owner should obtain additional insurance on his own.

[~~14~~. 15.] The time-share estate owner will pay real estate taxes on his time-share.

[~~15~~. 16.] The time-share estate owner will be required to pay the real estate taxes applicable to his time-share; failure to pay such taxes may result in the loss of the time-share unit.

[~~16~~. 17.] Failure on the part of the time-share estate owners' association to pay the real estate taxes on the time-share project or cause to be paid the underlying liens on the project could result in foreclosure thereon by the appropriate creditor.

[~~17~~. 18.] *Marketing and sale of time-shares shall comply with Virginia Fair Housing Law (§ 36-85 et seq. of the Code of Virginia); and*

[~~18~~. 19.] *A time-share purchaser is required to make certain disclosures to purchasers in the resale of his time-share.*

E. In the case of a TIME-SHARE USE PROGRAM, summary statements shall be made of the substance of the

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following facts and circumstances. Specific information shall be substituted for the general information indicated by brackets. Appropriate modifications shall be made to reflect facts and circumstances varying from those indicated herein:

[1. Purchasers have a nonwaivable right to cancel the purchase contract for seven calendar days after execution of the purchase contract or receipt of a current public offering statement, whichever is later. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded within 45 days after receipt of the notice of cancellation. If the purchaser elects to cancel this contract, the purchaser shall do so by hand-delivering the cancellation notice or mailing it by certified United States mail, return receipt requested, to the developer or to his agent for service of process, [name and address of agent for service of process].

[~~1. 2.~~] The time-share use program will [not] be governed by [a time-share owners' association the developer].

[~~2. 3.~~] Decisions affecting the time-share use project will be made by the developer.

[~~3. 4. Each A~~] time-share use owner cannot reduce the amount of his [assessment financial obligations] by refraining from use of his time-share or the projects' facilities;

[~~4. 5.~~] If a time-share use owner fails to pay [an assessment a financial obligation] when due, the developer may impose certain sanctions or penalties, including the forfeiture of the time-share;

[~~5. 6.~~] The developer, its principals, officers, directors, partners, or trustees have [not] undergone [a debtor's relief proceeding];

[~~6. 7.~~] A managing agent may perform routine operations for the operation, maintenance and upkeep of the time-share project, as determined by the developer. The managing agent is [affiliated with] the [developer, or a director or officer thereof];

[~~7. 8.~~] The developer may rent on a transient basis, [sold] unsold time-shares. The right of a time-share use owner to rent his time-share is [not] subject to restrictions;

[~~8. 9.~~] The right of a time-share use owner to resell his time-share is [not] subject to restrictions;

[~~9. 10.~~] The time-shares are [not] restricted to residential use;

[~~10. 11.~~] The time-share use owner may not alter the structure or exterior of the unit in which his time-share is located;

[~~11. 12.~~] The developer will obtain certain insurance benefiting the time-share use owner, but the time-share use owner should obtain additional insurance on his own;

[~~12. 13.~~] The time-share use owner may be required to pay applicable taxes imposed on the project similar in scope and design to taxes applicable to hotels, motels or other transient type accommodations;

[~~13. 14.~~] Marketing and sale of time-shares shall comply with Virginia Fair Housing Law (§ 36-85 et seq. of the Code of Virginia); and

[~~14. 15.~~] A time-share purchaser is required to make certain disclosures to purchasers in the resale of his time-share.

~~25.7~~ § 5.6. Narrative sections.

The information to be presented in the public offering statement shall be broken down into sections in order to facilitate reading and comprehension. Certain sections are required by ~~Regulations 25.8 §§ 5.7 through 25.19 5.19~~ of these regulations. Supplementary sections may be included whenever necessary to incorporate information which cannot properly be placed within one of the required sections. Supplementary section captions which indicate the nature of the material presented thereunder shall be utilized. The sections may be set out in any order which lends itself to the organized presentation of information. Section captions may be underscored, italicized or printed in larger or heavier type than the remainder of the public offering statement. A table of contents shall be utilized.

~~25.8~~ § 5.7. Time-share concept.

The Public Offering Statement shall contain a section captioned "The Time-Share Concept." The section shall consist of a discussion of the time-share form of ownership and shall include a detailed explanation of the type of time-share arrangement employed in the project. See ~~Appendix C.~~

~~25.9~~ § 5.8. Creation of the time-share program.

The public offering statement shall contain a section captioned "The Creation of the Time-Share Program." The section shall explain the manner in which the time-share program was [or will be] created and shall [briefly] describe [each of] the time-share [instruments, their functions instrument, its function] and the procedure for [their its] amendment. [The section shall provide the recording information for the time-share instrument.] The section shall indicate where [each of] the time-share [instruments instrument] or copies thereof may be found. The section shall state that the purchaser will receive copies of the recorded time-share [instruments instrument] prior to or simultaneously with settlement.

25-10 § 5.9. Description of the time-share program.

The public offering statement shall contain a section captioned "Description of the Time-Share Program." The section shall consist of a general description of the time-share program, the units, amenities and type of time-shares [then] being made available to purchasers. The section shall include, without limitation, statements indicating:

1. The land area of the time-share project;
2. The number of units in the project;
3. The number of units in the project to be organized on a time-share basis;
4. An identification of units that are subject to time-sharing and the type of time-shares being offered;
5. The duration of the time-shares;
6. The different types of units available;
7. Provisions, if any, that have been made for public utilities in the time-share project, including water, electricity, telephone, and sewerage facilities;
8. Restrictions, if any, as to what changes a time-share owner may make to his unit in which his time-share is located;
9. Whether or not the units are restricted solely to residential use;
10. The availability of vehicular parking spaces including the number of spaces available per unit and restrictions on or charges for the use of spaces ; and
11. *If the time-share project is subject to development rights, a brief description of those development rights including the land area and the maximum number of units [that may be added] and the maximum number of time-shares which may be created in those units.*

25-11 § 5.10. Developer.

A. The public offering statement shall contain a section captioned "The Developer". The section shall provide the name and principal address of the developer and shall contain a brief history of the developer with emphasis on its experience in time-share development.

B. The following information shall be stated with regard to every director, partner or trustee of the developer: (i) name and address; and (ii) principal occupation. The name and address of each person owning or controlling an interest of 20% or more in the time-share project shall also be indicated.

(e) If any sales agent employed or used by the developer in its sales effort has been convicted within the past ten years of a crime involving time-share disposition, condominium unit disposition, or any aspect of real estate business in this Commonwealth, the United States, or in any other state or foreign country, or has been the recipient of any permanent injunction or final administrative order pertaining to false or misleading promotional plans involving land dispositions, then the particulars of such conviction, injunction, or order shall be included in this section.

C. *If applicable, this section shall disclose the particulars of any indictment, conviction, judgment, decree or order of any court or administrative agency against the developer for violation of a federal, state, local or foreign county law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements or any similar or related activity.*

D. This section shall also include a description of any pending suit against the developer the outcome of which would materially affect the time-share project. *unsatisfied judgements against the developer, the status of any pending suits involving the sale or management of real estate to which the developer or any general partner, executive officer, director, or majority stockholder thereof, is a defending party, and the status of any pending suites of significance to the time-share project.*

E. *The section shall include the name and address of the developer's agent for service of process who is authorized to accept notice of cancellation pursuant to § 55-376 of the Code of Virginia.*

25-12 § 5.11. Terms of offering.

A. The public offering statement shall contain a section captioned "Terms of Offering". The section shall discuss the expenses to be borne by a purchaser in acquiring a time-share and present information [regarding the settlement of purchase agreements] as provided in subparagraphs subsection B through G hereof.

B. The section shall indicate the offering prices for time-shares or a price range for time-shares if either are established. The information required by this subsection will illustrate the relationship between time-share price and the season of the year during which the purchaser owns or has the right to use his time-share.

C. The section shall provide a general description of any financing offered the purchaser by or through the developer. This discussion shall indicate that financing is subject to additional terms and conditions stated in the loan commitment. This section shall also include a statement that the developer's lien holder shall have its lien rights preserved as against a time-share purchaser who claims the time-share instrument is invalid, void or voidable, 30 days after written notice has been given by

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the developer to the purchaser. The section must further state that should the developer assign his receivables from purchaser, the time-share purchaser has 30 days in which to object to the validity of the time-share instrument or the assignment or be forever barred from raising such objection in any subsequent enforcement of the collection of the receivables from purchaser.

D. The section shall discuss in detail any settlement costs associated with the time-share purchase transaction including, without limitation, any contribution to the initial or working capital of the time-share program, title insurance premiums, [recording costs] and attorney's fees. A description of the purpose and method of calculating any such [[initial or special fee contribution] shall also be provided .

E. The section shall discuss any penalties or forfeitures which may be incurred by a time-share purchase upon the purchaser's default of his purchase agreement.

F. The section shall discuss the right of the developer to cancel a purchase agreement upon failure of the developer to obtain purchase agreements on a given number or percentage of time-shares being offered or upon failure of the developer to meet conditions precedent to obtaining necessary financing.

[G. The section shall include the following statement:]
"If you as a time-share purchaser received the current offering statement on this project less than five business days prior to signing your contract or agreement for the purchase and sale of your time-share, you have the automatic right until midnight of the fifth business day following the signing of the contract to revoke or cancel this transaction by notice to the developer. Otherwise, you have no automatic right to revoke this transaction. [*Purchasers have a nonwaivable right to cancel the purchase contract for seven calendar days after execution of the purchase contract or receipt of a current public offering statement, whichever is later. Cancellation is without penalty, and all payments made by you before cancellation must be refunded within 30 45 days after receipt of the notice of cancellation. If you elect to cancel this contract, you shall do so by hand-delivering the cancellation notice or mailing it by certified United States mail, return receipt requested, to the developer or to his agent for service of process, [name and address of agent for service of process " .]*

[H. G.] The section shall discuss escrow of the manner in which deposits made are escrowed when a purchase or reservation of a time-share occurs [as required by § 55-375 of the Code of Virginia]. [The section shall contain the statement required by § 55-374.A.18 of the Code of Virginia.] The section shall contain a statement that an escrow requirement exists only where the right of rescission is applicable to the sale. [The section shall include a statement that any such deposit shall be placed in escrow and held in this Commonwealth until it is (i) delivered to the developer at the expiration of the]

rescission [*cancellation period*] ; if applicable, [or any later time specified in the contract of sale;] provided the sold time-share is within a unit completed or the developer or its contractor provides a payment or performance bond, with surety or letter of credit guaranteeing the completion thereof, [(ii) delivered to the developer because of the purchaser's default under] his [a contract] ; [to purchase a time-share, such default being determined by an order of a court of competent jurisdiction or by a written agreement signed by the parties; or (iii) refunded to the purchaser. The section shall also state that a fidelity bond has been posted with the board to protect the deposit while in escrow, but that the protection of escrowed deposits is limited. The developer is responsible to monitor and maintain a bond in the proper amount. Should the amount of the bond become inadequate, the developer shall file a bond in the correct amount.]

25-12 § 5.12. Administration of time-share program.

A. The public offering statement shall contain either a section captioned "Administration of Time-Share Estate Program" or a section captioned "Administration of Time-Share Use Program", depending upon the form of time-shares being offered by the developer. The section shall discuss the manner in which the time-share program will be governed and administered.

B. "Administration of time-share estate program".

1. The section shall describe the functions and the organization's structure of the time-share estate owners' association . formed pursuant to the Virginia Non-Stock Corporation Act. The description shall indicate: (i) the existence or provisions for a [board of directors governing body] and officers; (ii) the manner of their election or appointment; (iii) the assignment or delegation of responsibility for performance of the functions of the unit owners' association and (iv) those items outlined in § 55-368, numbered 2 through 10 of the Code of Virginia.

2. The section shall describe the allocation of voting power among the time-share estate owners and [will shall] explain how votes will be cast. Any provision in the time-share [instruments instrument] for regular [or special] meetings of the estate owners shall be mentioned.

3. The significant terms of any lease of recreational areas or similar contract or agreement affecting the use, maintenance or access of all or any part of the time-share [project], shall be stated. A brief narrative statement of the effect of each of any such agreements shall be included.

4. Rules and regulations for the use, enjoyment, and occupancy of units, and the authority to promulgate and amend such rules shall be discussed. Included shall be a description of the method, if any, to be

employed to assign or reserve occupancy periods for the time-share owners. Methods for providing alternate use periods or monetary compensation to a time-share owner if his contracted-for unit cannot be made available for the periods to which the owner is entitled by schedule or by confirmed reservation shall be discussed.

5. Any standing committees established or to be established to perform functions of the time-share estate owners' association shall be discussed. Such committees include, without limitation, executive committees, architectural control committees and committees having the authority to interpret time-share instruments or rules and regulations

6. Any power of the developer or of the time-share estate owners' association to enter units shall be discussed. To the extent each is applicable, the following facts shall be stated: (i) a unit may be entered without notice to the time-share owners; (ii) the developer or representatives or the time-share estate owners' association are empowered to take actions or perform work in a unit without the consent of the units' owners; and (iii) the time-share owners may be required to bear the costs of actions so taken or work so performed.

7. The section shall describe any routine janitorial procedures that are to occur between occupancy periods of time-share owners, as well as any maintenance program that is to take place on an annual or semi-annual basis.

8. The managing agent, if any, shall be identified. If a managing agent is to be employed in the future, the criteria, if any, for selection of the managing agent shall be briefly stated. The section shall indicate any relationship between the managing agent and the developer or a member of the board of directors or an officer of the time-share estate owners' association. The duration of any management agreement shall be stated.

9. The section shall discuss any retention by the developer of control over the time-share estate owners' association. The association's power to pass special assessments against and raise the annual assessments of the time-share owners upon the termination of the developer control shall also be discussed.

C. "Administration of time-share use program". The section shall provide the information required by § 55-371 of the Code of Virginia. In addition, the section shall discuss, to the extent relevant, the matters raised by Regulation 25-13 (b) § 5.12 subsection B., paragraphs 3 through 8 of these regulations.

D. With respect to the managing entity of time-share projects under either a time-share estate program or

time-share use program, if applicable, this section shall disclose:

1. The particulars of any indictment conviction, judgment, decree or order of any court or administrative agency against the managing entity for violation of a federal state, local or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements or any similar or related activity; and

2. The particulars of any unsatisfied judgments against the managing entity, the status of any pending suits involving the sale or management of real estate to which the managing entity is a defending party.

25-14 § 5.13. Finances.

A. The public offering statement shall contain either a section captioned "Finances of Time-Share Estate Ownership" or a section captioned "Finances of Time-Share Use Ownership", depending upon the form of time-share development used in the projects. The section shall discuss the expenses incident to the ownership of a time-share in the manner provided in subsections B through H hereof.

B. The section shall describe the nature of the costs and expenses of operating the time-share program and shall distinguish between those to be paid by the developer and those to be paid by the time-share owners. The section shall explain how the responsibilities for payment of operating costs will be apportioned among the time-share owners. In the case of a time-share estate program, this section shall describe and distinguish between developer expenses and time-share estate occupancy expenses as well as the meaning of the "Developer Control Period" as outlined in § 55-369 of the Code of Virginia, and when it commences and ends. Mention shall be made of the developer's right to collect a periodic fee from the time-share estate owner for the payment of the latter expenses; the method of apportionment between time-share estate owners shall be explained.

C. The section shall contain a statement describing any current or expected fees or charges to be paid by time-share owners for the use and enjoyment of any facilities related to the project. This shall include, without limitation, any fee attributable to the use of recreational facilities mentioned in any [of the] time-share [documents document] or during the marketing activities.

D. The section shall contain a statement describing the extent to which financial arrangements, if any, have been provided for completion of any time-share unit offered for sale. The section shall also contain, to the extent the developer has an obligation to complete, a statement and description of all planned improvements to the project

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whether begun or not yet begun.

E. The section shall describe any services which the developer provides or expenses it pays which may become at any subsequent time a time-share expense of the time-shares, and the projected time-share expense liability attributable to each of those services or expenses for each time-share.

F. In a time-share estate program where the developer control period has not yet terminated, the section shall contain the [latest annual current] balance sheet and a projected budget for the [program association] for one year after the date of the first transfer to a purchaser. After that one year period, a current budget shall be included in lieu of the projected budget and [annual current] balance sheet mentioned above. All budgets shall be accompanied by a statement indicating the name of the preparer of the budget, and a statement explaining all budgetary assumptions concerning occupancy and inflation. All budgets must include, without limitation: (i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacements; and (ii) a statement of any other reserves. If the project is a time-share estate project and if the developer control period has not ended, the budget shall also include; (iii) the projected common expense liability for all time-share owners; (iv) the projected common expense liability by category of expenditures; and (v) a statement of the amount included in the budget reserved for repairs to and refurbishing of the project and the replacement of the personality situated therein.

G. The "Finances of Time-Share Use Ownership" section shall, where the developer's equity in the project net worth is less than \$250,000, include a current audited financial balance sheet or a statement disclosing the developer's net worth. Such statement shall specifically state the amount of equity in the project by such developer that its equity in such program exceeds such amount.

H. The section shall discuss the effect of failure of a time-share owner to pay when due the assessments, fees or charges levied against his time-share. Such discussion shall indicate provisions for penalties to be applied in the case of overdue assessments including the lien authorized by § 55-370 B of the Code of Virginia, and for the acceleration of unpaid assessments.

25-15 § 5.14. Restrictions on transfer.

The public offering statement shall include a section captioned "Restrictions on transfer". The section shall describe and explain any rights of first refusal, preemptive rights, limitations on leasing or other restraints on free alienability created by the time-share instruments or the rules and regulations which affect the time-share estate owners' or the time-share use owners' right to resell, lease or otherwise transfer an interest in his time-share estate or use.

25-16 § 5.15. Insurance.

The public offering statement shall contain a section captioned "Insurance". The section shall describe the insurance coverage provided for the benefit of time-share owners. Included shall be a discussion of the comprehensive general liability insurance for death, bodily injury, and property damage arising out of, or in connection with, the use and enjoyment of units by time-share estate owners or time-share use owners or their guests. It shall be made clear that in the case of a time-share estate project the costs associated with this liability insurance will be borne by the developer during the developer control period, and thereafter, the costs will be assumed by the time-share estate owners' association; and that in the case of a time-share use project, the costs associated with securing and maintaining such insurance shall be borne by the developer.

Depending on the time-share organization employed by the developer, comprehensive, general liability insurance required by §§ 55-368(7) or 55-371(7) of the Code of Virginia shall be included in this discussion.

25-17 § 5.16. Encumbrances.

A. Where the project is a time-share estate program, The public offering statement shall contain a section captioned "Encumbrances". The section shall contain a description of any liens, defects, or encumbrances on and adversely affecting the title of the project and the individual time-share estate units, and shall provide the information called for in subparagraphs subsections C through G below.

B. Regardless of the form of time-share organization, The section shall describe the extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other owners of the same unit. The section shall discuss the consequences that the filing of federal tax liens would have on the project.

C. The section shall describe every mortgage, deed of trust, other perfected lien or ~~estate~~ mechanics' or materialman's lien affecting all or any portion of the time-share project other than those placed on time-share estate units by their purchasers. The description shall identify the lender secured or the lienholder, shall state the nature and original amount of the obligation secured, shall identify the party having primary responsibility for performance of the obligation secured, and shall indicate the practical effect upon unit owners of failure of said party to perform the obligation.

D. Normal easements for utilities, municipal rights-of-way and emergency access shall be described only as such, without reference to ownership, location or other details.

E. Easements reserved to the developer to facilitate expansion or sales shall be briefly described.

F. Easements reserved to the developer or to the time-share estate owners' association or its representatives or agents for access to a unit shall be described. In the event that access to a unit may be had without notice to the unit owner, such fact shall be stated.

G. Easements across the time-share project reserved to the owners or occupants of land located in the vicinity of the project including, without limitation, easements for the use of recreational areas shall be described.

~~25-18~~ § 5.17. *Exchange program.*

The public offering statement shall contain a section captioned "Exchange Program", if, at the time of purchase of a time-share, the purchaser is permitted or required to become a member of or a participant in an exchange program. [An "exchange program" is a program offered by the developer or an independent exchange agent for the exchange of occupancy rights with the owners of time-shares of other time-share projects.] This section shall contain the information required by § 55-374 B of the Code of Virginia. [In the alternative, the developer may incorporate by reference the exchange company disclosure document if the exchange company has properly registered with the board and that document contains all the disclosures required by § 55-374.B of the Code of Virginia.]

~~25-19~~ § 5.18. *Taxes.*

A. The public offering statement shall contain a section captioned "Taxes". The section shall describe all existing or proposed taxes to be levied against time-shares individually including, without limitation, real property taxes, transient taxes and other special assessments. Taxes levied against the entire time-share project shall be disclosed pursuant to Regulation ~~25-14~~ § 5.13 of these regulations. The section shall state who will be responsible for payment of taxes.

B. With respect to local real property taxes and with reference to a time-share estate project, the section shall state the assessed valuations of the time-shares and the tax rate currently in effect. If assessed valuations have not yet been determined, the section shall state a procedure or formula by means of which the taxes may be estimated once assessed value has been determined. The section shall indicate the basis upon which the assessed value will be or was calculated, as set forth in § 55-363 C of the Code of Virginia.

~~25-20~~ § 5.19. *Surrounding area.*

The public offering statement shall contain a section captioned "Surrounding Area". This section shall briefly describe the zoning of the immediate neighborhood of the time-share project. The section may indicate the existence and proximity of community facilities available to time-share owners.

§ 5.20. *Additional information.*

The public offering statement may include additional information as required by the Real Estate Board to assure full and accurate disclosure.

§ 5.21. *Substitute public offering statement.*

A. A substitute public offering statement is a document originally prepared in compliance with the laws of another jurisdiction and modified in accordance with the provisions of this section in order to fulfill the disclosure requirements established for public offering statements by § 55-374 of the Code of Virginia. A substitute public offering statement shall not be employed in the case of a time-share project located in Virginia.

B. The substitute public offering statement shall be prepared by deleting from the original disclosure document: (i) references to any governmental agency of another jurisdiction to which application has been made or will be made for registration or related action; (ii) references to the action of such governmental agency relative to the time-share project; (iii) statements of the legal effect in another jurisdiction of delivery, failure to deliver, acknowledgement of receipt or related events involving the disclosure document; (iv) the effective date or dates in another jurisdiction of the disclosure document; and (v) all other information which is untrue, inaccurate or misleading with respect to marketing offers or disposition of time-share units in Virginia.

C. The substitute public offering statement shall incorporate all information not otherwise included which is necessary to effect fully and accurately the disclosures required by § 55-374 of the Code of Virginia. The substitute public offering statement shall clearly explain any nomenclature which is different from the definitions provided in § 55-362 of the Code of Virginia or which, for any other reason, may confuse purchasers in Virginia. Any information not required by § 55-374 may be deleted, provided that such deletion does not render the required information misleading.

D. The first two pages of the substitute public offering statement document shall be prepared to conform as closely as possible to the specimen appended as Appendix A to these regulations and made a part of hereof. The three blanks in the first sentence of the third paragraph of the specimen shall be completed by insertion of the following information: (i) the designation by which the original disclosure document is identified in the jurisdiction pursuant to whose law it was prepared; (ii) the governmental agency of such other jurisdiction with which the original disclosure document is or will be filed; and (iii) the jurisdiction of such filing.

E. No portion of the substitute public offering statement may be underscored, italicized or printed in larger, heavier or different color type than the remainder of the substitute public offering statement disclosure document.

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except, (i) as required by subparagraph D hereof; (ii) as required or permitted in the original disclosure document by the laws of the jurisdiction pursuant to which it was prepared; and (iii) as provided by order of the board in cases in which it finds that the significance to purchasers of certain information requires that such information be disclosed more conspicuously than by regular presentation in the substitute public offering statement.

SECTION 26

PART VI. CONVERSION PROJECT.

~~26-1~~ § 6.1. Public offering statement for conversion project; general ~~instructions~~ provisions.

The public offering statement for a conversion project shall conform in all ways to the requirements of Regulations ~~26-1~~ §§ 5.1 through ~~26-10~~ 5.20 of these regulations. In addition, the public offering statement for a conversion project shall: (i) contain special disclosures in the narrative sections captioned "Description of the Time-Share Project", "Terms of Offering", and "Finances of Time-Share (Use or Estate) Ownership" and (ii) incorporate narrative sections captioned "Present Condition of the Time-Share Project" and "Replacement Requirements". Provisions for such additional disclosure are set forth in Regulations ~~26-3~~ §§ 6.3 through ~~26-20~~ 6.7 of these regulations.

~~26-2~~ § 6.2. Same; special definitions.

As used in this paragraph and in Regulations ~~26-3~~ §§ 6.3 through ~~26-7~~ 6.7 of these regulations:

"Structural component" shall mean a component constituting any portion of the structure of a time-share unit or any other structure located in the time-share project and in which a defect would reduce the stability or safety of all or part of the structure below accepted standards or restrict the normal intended use of all or a part of the structure.

~~26-3~~ § 6.3. Description of the time-share project, conversion project.

In addition to the information required by Regulation ~~26-10~~ § 5.9 of these regulations, the section captioned "Description of the time-share project" shall indicate that the time-share project is a conversion project. The term "conversion" shall be defined and the particular circumstances which bring the time-share project within the definition shall be stated. The nature and dates of prior occupancy of the property being converted shall be stated.

~~26-4~~ § 6.4. Terms of offering, conversion project.

In addition to the information required by Regulation ~~26-12~~ § 5.11 of these regulations, the section captioned

"Terms of Offering" shall contain a specific statement of the amount of any initial or special fee due from the purchaser of a time-share on or before settlement of the purchase contract and the basis for such fee. Such fees include, without limitation, a required contribution to: (i) the payment of costs of conversion in any manner other than through payment of the time-share offering price; and (ii) a reserve for capital expenditures.

~~26-5~~ § 6.5. Finances, conversion project.

A. In addition to the information required by Regulation ~~26-14~~ § 5.13 of the regulations, the section captioned "Finances of Time-Share [Use or Estate] ownership" shall contain the information set forth in subparagraphs subsections B and C hereof.

B. The actual expenditures made on operation, maintenance, repair or upkeep of [the each converted] building [or buildings] within the last three years shall be set forth in tabular form [as a form of and included in] the proposed budget of the project. The expenditures shall be cumulatively broken down on a per time-share unit basis and on a per time-share basis in proportion to the relative voting [strengths rights in the association, if any] allocated to the time-shares [by the bylaws]. If [the such] building [or buildings have has] not been occupied for the entire three-year period, then the information shall be set forth for the maximum period the building [or buildings have has] been occupied during the three-year period.

C. The section shall include a description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves. If any part of the capital reserves will or may be obtained other than through [either] regular [or special] assessments [,] such fact shall be stated. If no provision is made in the budget for these reserves, a statement to that effect shall be included. In the case of a time-share estate program, the section shall state the amount of capital reserves which [will is intended to] be accumulated by the time-share estate owners' association during the developer control period together with any provisions [of in] the time-share documents specifying the rate at which reserves are to be accumulated thereafter.

~~26-6~~ § 6.6. Present condition of time-share project.

A. The section captioned "Present Condition of Time-Share Project" shall contain a statement of the approximate dates of original construction or installation of all [physical assets structural components and major utility installations] in the time-share project. [For the purposes of Part VI of the regulations, such components and installations shall be referred to as the "physical assets."] A single construction or installation date may be stated for all of the physical assets; (i) in the time-share projects; (ii) within a distinctly identifiable portion of the time-share projects; or (iii) within a distinctly identifiable category of physical assets. A statement made pursuant to

the preceding sentence shall include a separate reference to the construction or installation date of any physical asset within a stated group of physical assets which was constructed or installed significantly earlier than the construction or installation date indicated for the group generally. No statement shall be made that a physical asset or a portion thereof has been repaired, altered, improved or replaced subsequent to its construction or installation unless the approximate date, nature and extent of such repair, alteration, improvement or replacement is also stated.

B. Subject to the exceptions provided in subparagraphs subsections B, E and F hereof, the section captioned "Present Condition of the Time-Share Project" shall contain a description of the present condition of all physical assets within the time-share project. The description of present condition shall disclose all structural defects and incapacities of major utility installations to perform their intended functions as would be observable, detectable or deducible by means of standard inspection and investigative techniques employed by architects or professional engineers, as the case may be.

C. The section shall indicate [~~the~~ *any known*] dates of inspection by means of which the described present condition was determined; provided, however, that such inspection shall have been conducted not more than one year prior to the date of filing the application for registration. The section shall identify the party or parties by whom [*the*] present condition was ascertained and shall indicate the relationships of such party or parties to the [~~declarant developer~~].

D. A single statement of the present condition of a class of physical assets shall suffice to disclose the present condition of each physical asset within the class provided, however, that unless subparagraph subsection E hereof applies, such statement shall include a separate reference to the present condition of any physical asset within the class which is significantly different from the present condition indicated for the class generally.

E. The description of present condition may include a statement that all structural components in the time-share project or in a distinctly identifiable portion thereof are in sound condition except those for which structural defects are noted.

F. In a case in which there are numerous physical assets within a class of physical assets and inspection of each such physical asset is impracticable, the description of present condition of all the physical assets within the class may be based upon an inspection of a number of them selected at random, provided that the number selected is large enough to yield a reasonably reliable sample and the total number of physical assets within the class and the number selected are disclosed.

26-7 § 6.7. Replacement requirements.

A. Subject to the exception provided in subparagraphs subsection B hereof, the section captioned "Replacement requirements" shall state the useful lives of all physical assets in the time-share project. The section shall state that expected useful lives run from the date of inspection by means of which the expected useful lives were determined. Such inspection date shall be stated.

B. A single statement of the expected useful life of a class of physical assets shall suffice to disclose the expected useful life of each physical asset within the class; provided, however, that such statement shall include a separate reference to the expected useful life of any physical asset within such class which is significantly shorter than the expected useful life indicated for the class generally.

C. An expected useful life may be qualified. A qualified expected useful life is an expected useful life expressly conditioned upon a given use or level of maintenance or other factor affecting longevity. No use, level of maintenance or other factor affecting longevity shall be stated as a qualification unless such use, level of maintenance or factor is normal or reasonably anticipated for the physical asset involved. If appropriate, an expected useful life may be stated as being indefinite, subject to the state qualifications that the physical asset involved must be properly used and maintained. An expected useful life may be stated as being within a range of years, provided that the range is not so broad as to render the statement meaningless.

D. The section shall state the replacement costs of all physical assets in the time-share project including those whose expected useful lives are stated as being indefinite. The replacement costs shall be broken down on a per unit basis or a per time-share basis. A statement of the replacement costs of a representative member of a class of physical assets shall suffice to disclose the replacement cost of each physical asset within the class; provided, however, that such statement shall include a separate reference to the replacement cost of any physical asset within the class which is significantly greater than the replacement cost indicated for the representative member of the class.

SECTION 27

PART VII.

POST-REGISTRATION PROVISIONS.

~~27-1~~ § 7.1. Material change defined.

As used in Regulations 27-2 §§ 7.2 through 27-5 7.5 "material change" shall mean a change in any information or document disclosed in or attached to a public offering statement whose form and content are designated for use pursuant to Regulations ~~23-2(e)~~ §§ 2.3 subsection C or ~~27-2(b)~~ 7.3 subsection B. which renders such information or document substantially inaccurate, incomplete or misleading. Any changes occurring in the real estate tax

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assessment or rate, utility charges, common maintenance fees, association dues, assessments or other similar recurring expense items shall not be deemed a material charge; provided, however, such information shall be then current when the public offering statement is prepared and submitted to the *Commission board* and shall be updated at least on an annual basis.

The issuance of the updated exchange agent's *company's* annual report shall not constitute a material change; except, however, upon receipt thereof by the developer, it shall commence distribution of same in lieu of all others in order to satisfy § 55-374(b) of the Code of Virginia.

Without limiting the generality of the preceding sentence, a material change shall be deemed to occur whenever (i) information or a document required to be disclosed in or attached to a public offering statement but not so disclosed or attached by reason of its previous unavailability or nonexistence becomes available or comes into existence and (ii) a new budget is adopted in a project where time-share estates are sold.

~~27-2~~ § 7.2. Amendment of public offering statement.

A. Prior to or upon the occurrence of a material change, or as soon thereafter as possible, the developer shall amend the public offering statement to disclose the modified or additional information and ~~for~~ to include that modified or additional document, as the case may be. The developer may amend the public offering statement other than in connection with a material change.

B. Amendment of the public offering statement may be accomplished in any intelligible manner and, to the extent that strict compliance with any of the provisions of these regulations governing the form of presentation of information in the public offering statement would be unduly burdensome, the developer may deviate therefrom in amending the public offering statement, provided that (i) no such deviation shall be more extensive than is necessary and appropriate under the circumstances, (ii) the requirements of ~~Regulations 25-3~~ §§ 5.2 and 5.7 are strictly observed and (iii) the presentation of information in the amended public offering statement is organized so as to facilitate reading and comprehension. Nothing contained herein shall authorize a deviation from strict compliance with a provision of these regulations governing the substance of disclosure in the public offering statement. If any information has been inaccurate or misleading by reason of the material change and is not deleted from the public offering statement in connection with its amendment, such fact shall be clearly noted.

C. Correction of spelling, grammar, omission, or other similar errors not affecting the substance of a public offering statement shall not be deemed [*either a material change or*] an amendment of the public offering statement for the purposes of these regulations; provided, however, the developer shall file with the *Commission board* a copy of a public offering statement so corrected.

~~27-2~~ § 7.3. Filing of amended public offering statement.

A. The developer shall promptly file with the *Commission board* a copy of an amended public offering statement. Unless ~~subparagraph~~ *subsection D* hereof applies, the developer shall, as a part of such filing, update the application for registration on file with the *Commission board* either by filing a new application or by advising the *Commission board* of changes in the information contained in a previously filed application and/or file new or substitute documents. In the case of a public offering statement (i) amended other than in connection with a material change or (ii) presumed current pursuant to ~~Regulations 27-5~~ § 7.5, the filing shall indicate the date of amendment.

B. Unless ~~subparagraph~~ *subsection D* hereof applies, the *Commission board* shall issue a notice of filing within five business days following receipt in proper form of the materials required by ~~subparagraph~~ *subsection A* hereof. The *Commission board* shall review the amended public offering statement and supporting materials to determine whether the amendment complies with ~~Regulation 27-2~~ § 7.2. At such time as the *Commission board* affirmatively determines that the amendment complies with ~~Regulation 27-2~~ § 7.2, but not later than the 30th day following issuance of the notice of filing, it shall enter an order designating the amended form and content of the public offering statement to be used. Such order shall provided that previous orders designating the form and content of the public offering statement for use are superseded.

C. If the *Commission board* determines, pursuant to ~~subparagraph~~ *subsection B* hereof, that an amendment to the public offering statement does not comply with ~~Regulation 27-2~~ § 7.2, it shall immediately, but in no event later than the 20th day following issuance of the notice of filing enter an order declaring the amendment not in compliance with ~~Regulation 27-2~~ § 7.2 and specifying the particulars of such noncompliance. In the case of a public offering statement amended other than in connection with a material change, the order shall relate back to the date of amendment. If neither of the orders provided for by this ~~subparagraph~~ *subsections C* and *subparagraph B* hereof are entered within the time allotted, the amendment shall be deemed to comply with ~~Regulation 27-2~~ § 7.2. The developer may, at any time, correct and refile an amended public offering statement; provided, however, that if an order of noncompliance has been entered with respect to the amendment, all of the provisions of ~~subparagraphs~~ *subsections A* and *B* hereof and this ~~subparagraph~~ *subsection C* shall apply to such refile.

D. If the material change which resulted in amendment of the public offering statement was an expansion of the time-share project, the developer shall file [*a complete an amendment to the*] application for registration of the additional units, provided, that no such [*application amendment*] need be filed for units previously registered. [*Any*] such [*amendment to the application*] for

registration shall be subject to all of the provisions of Section 22 Part 2 and the Commission board shall observe the procedures of Regulation 22.2 § 2.3 in regard to the application. Documents then on file with the Commission board and not changed in connection with the creation of additional units need not be refiled, provided that the [application amendment] indicates that such documents are unchanged.

E. In each case in which an [amended document amendment] is filed pursuant to this [paragraph section] and the manner of its amendment is not apparent on the face of the document, the developer shall provide an indication of the manner and extent of amendment.

27.4 § 7.4. Current public offering statement.

A. A public offering statement is current if [its form and content are the board has] designated [it] for use pursuant to [either] Regulations 23.2(e) § 2.3 subsection C or 27.3(b) § 7.3 subsection B. [of these regulations.] [and The public offering statement] remains current so long as no material change occurs [and any amendment of the public offering statement other than in connection with a material change is made in compliance with Regulation 27.2 20.2].

B. A public offering statement ceases to be current upon the occurrence of a material change, and subject to the exception provided in Regulation 27.5 § 7.5, does not thereafter become current unless and until (i) it is amended pursuant to Regulation 27.2 § 7.2 and (ii) the Commission board, with respect to such amendment, enters an order pursuant to Regulation 23.2(e) § 2.3 C or 27.3(b) § 7.3 B or fails to enter, within the times allotted therefor, any of the orders provided for by Regulations 27.3(b) § 7.3 subsections B and C.

C. If the Commission board determines that a public offering statement amended other than in connection with a material change fails to comply with Regulation 27.2 § 7.2, that public offering statement ceases to be current as of the date of amendment. Such cessation shall be affected retroactively by the Commission's board's entry of an order of noncompliance and nothing contained herein shall limit the developer's right to use the public offering statement as current prior to the entry of an order of noncompliance. The public offering statement does not thereafter become current unless and until it is corrected and refiled and the Commission board, with respect to such amendment, enters an order pursuant to Regulation 27.3(b) § 7.3 B or fails to enter either of the orders provided for by 27.3(b) Regulations § 7.3 subsections B or C.

27.5 § 7.5. Certain amended public offering statements presumed current.

A. A public offering statement amended by the developer to disclose any material change which is an aspect or result of the orderly development of the

time-share project or the normal functioning of the time-share estate owners' association shall be presumed current immediately upon its amendment, subject, however, to the condition that the Commission board shall subsequently determine that the amendment was made in compliance with Regulation 27.2 § 7.2. An amended public offering statement presumed current pursuant to this subsection shall be referred to elsewhere in these regulations as a presumptively current public offering statement.

B. The developer shall file with the Commission board a copy of a presumptively current public offering statement and all of the provisions of Regulations 27.3 § 7.3 shall apply to such filing except that, in addition, (i) the filing shall be made no later than ten ~~(10)~~ 20 business days following the occurrence of the material change which necessitated the amendment and (ii) the filing shall indicate the developer's plans, if any, to deliver the presumptively current public offering statement to purchasers pursuant to § 55-376 of the Code of Virginia.

C. A Commission board order declaring that an amendment which resulted in a presumptively current public offering statement is not in compliance with Regulation 27.2 § 7.2 shall render ineffective the presumption that the public offering statement is current. In that event, the public offering statement shall be deemed to have ceased being current upon the occurrence of the material change which necessitated the amendment. Nothing contained herein shall limit the developer's right to use a presumptively current public offering statement prior to entry of the order of noncompliance. A presumptively current public offering statement also ceases being current upon the developer's failure to file within the time provided in subparagraph subsection B hereof, but such cessation shall have no retroactive effect. A presumptively current public offering statement which ceases pursuant to this subparagraph subsection does not thereafter become current unless and until it is filed or refiled with the Commission board pursuant to Regulation 27.3 § 7.3 and the Commission board with respect to such public offering statement, enters an order pursuant to Regulation 27.3(b) § 7.3.B. or fails to enter, within the times allotted therefor, any of the orders provided for in 27.3(b) § 7.3 subsections B and C.

27.6 § 7.6. Public offering statement not current; notification of purchasers.

[When ordered by the Commission board, As required by § 55-376 C of the Code of Virginia,] the developer shall notify every [time share] purchaser [under contract who has not yet settled and] to whom has been delivered a public offering statement which was subsequently determined not to have been current at the time of its delivery. Such notification shall indicate that any contract for disposition of a time-share is ~~cancelable~~ may be cancelled unless and until the developer complies with the provisions of [§ 55-376(e) 55.374.E] of the Code of Virginia. The developer shall file a copy of the

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notification with the Commission board. The provisions of this section shall apply only to those purchasers who had the right of rescission applicable to their transaction, and provide proof that all purchasers then under contract were given the opportunity to cancel their contracts to purchase a time-share.

27-7 § 7.7. Annual report by developer.

At least annually, the developer shall review the public offering statement then being delivered to purchasers. If such public offering statement is not current, the developer shall amend the public offering statement in compliance with the requirements of Regulation 27-3.

A. Within 30 days prior to each anniversary date of the effective date of registration the developer shall file with the board an annual report in the form required by the board.

B. The report shall reflect any material change in the information contained in the original application for registration or supplemental registration application and shall be accompanied by the required fee.

C. If the time-share project is a time-share estate project and the developer control period is still in effect for any portion of the project, the developer shall append to the annual report the time-share owners' association annual report required by § 55-370.1 of the Code of Virginia.

27-8 Provisions applicable to substituted disclosure document, prospectus. - (a) The provisions of Regulations 27-1 through 27-7 shall apply to a substituted disclosure document in the same manner and to the same extent that the apply to public offering statements.

(b) The body of the prospectus shall be amended only as provided in applicable securities law. The developer shall immediately file with the Commission any amendments to the body of the prospectus and, upon receipt thereof, the Commission shall enter an order designating the form and content of the prospectus to be used and providing that previous orders designating the form and content of the prospectus for use are superseded. A prospectus is current so long as it is effective under applicable securities law and the information and documents attached thereto are current under the provisions of Regulations 27-4 and 27-5. The developer shall immediately notify the Commission if the prospectus ceases being effective. If no prospectus is effective and the developer proposes to continue offering time-shares, the developer shall file a public offering statement with the Commission pursuant to Regulation 27-3.

(c) The provisions of Regulation 27-6 shall apply to a prospectus in the same manner and to the same extent that they apply to a public offering statement.

(d) In an annual review involving a prospectus the developer shall comply with all of the provisions of

Regulation 27-7 applicable to public offering statements and, in addition, shall certify that an effective prospectus is available for delivery to purchasers and shall indicate that developer's plans or expectations regarding the continuing effectiveness of the prospectus.

§ 7.8. Termination of registration.

A. At any time, upon petition filed by the developer the board shall enter an order of termination, which order shall become effective upon issuance of the order by the board.

B. In a time-share estate project, if the annual report or petition of the developer filed with the board indicates that the developer has transferred to the time-share owners' association title to all or any portion of the time-share project and that no further development rights exist therein by the developer, the board shall forthwith issue an order terminating the registration of such portion as a time-share project.

C. Prior to termination of registration, all bonds filed with the board in compliance with the Real Estate Time-Share Act must be released.

PART VIII. EXCHANGE PROGRAMS.

§ 8.1. Application for registration.

Application for registration of time-share exchange companies shall be filed at the offices of the board. The application shall contain all of the documents and information required by § 55-374.2 of the Code of Virginia. Each application for registration shall be submitted on the standard application form. The application shall be accompanied by the fee established by § 2.4 D.

§ 8.2. Disclosure document.

The exchange company shall prepare and file with the board a disclosure document which will be distributed to all time-share purchasers who opt to participate in the exchange program. Not more than one version of the disclosure document shall be authorized for use at any given time with respect to a particular exchange program.

§ 8.3. Preparation of the disclosure document; readability.

The disclosure document shall be clear, understandable and as brief as is consistent with full and accurate disclosure. In no event shall the disclosure document be made so lengthy or detailed to discourage close examination. Determination as to compliance with the standards of this section are within the exclusive discretion of the board.

§ 8.4. Nature of information to be included.

A. The [provisions for the] contents of the disclosure

document [as] required by § 55-374.2 A of the Code of Virginia shall be strictly construed to promote full and accurate disclosure.

B. The requirements for disclosure are not exclusive. In addition to expressly required information, the applicant shall disclose all other available information which may reasonably be expected to affect the decision of the ordinarily prudent time-share purchaser to accept or reject membership in the exchange program. The exchange company shall disclose any additional information necessary to make the required information not misleading. No information may be presented in such a fashion as to obscure the facts, to encourage a misrepresentation of the facts or otherwise to mislead a prospective member of the exchange program.

C. No information shall be incorporated by reference to an extrinsic source which is not readily available to the prospective member. Whenever required information is not known or not reasonably available, such fact shall be stated in the disclosure document with a brief explanation. Whenever special circumstances exist which would render required disclosure inaccurate or misleading, the required disclosure shall be omitted, provided that such modification or omission promotes full and accurate disclosure.

D. The disclosures required by § 55-374.2 A (1) through (18) of the Code of Virginia may be in any order selected by the applicant and may be in a supplement to a larger brochure published by the exchange company, provided nothing in the larger brochure is in variance to that information contained in such supplement.

§ 8.5. Annual report.

On or before July 1 of each year, an exchange company whose exchange program has been registered by the board must file an annual report which updates the registration and disclosure document filed with the board. Such report shall be accompanied by the fee established by § 2.3 subsection D of these regulations.

TIME-SHARE REGULATIONS
[APPENDIX A]

PURCHASER SHOULD READ THIS DOCUMENT FOR HIS OWN PROTECTION

PUBLIC OFFERING STATEMENT

NAME OF TIME-SHARE PROJECT:
 LOCATION OF TIME-SHARE PROJECT:
 NAME OF DEVELOPER:
 ADDRESS OF DEVELOPER:
 EFFECTIVE DATE OF PUBLIC OFFERING STATEMENT[_____]
 [AMENDED: _____]
 [REVISED: _____]

This Public Offering Statement presents information regarding Time-Shares being offered for sale by the Developer. Virginia law requires that a Public Offering Statement must be given to every Purchaser in order to provide full and accurate disclosure of the significant features of the Time-Shares being offered. The Public Offering Statement is not intended, however, to be all-inclusive. The Purchaser should consult other sources for details not covered by the Public Offering Statement.

The Public Offering Statement summarizes information and documents furnished by the developer to the Virginia Real Estate Board. The Board has carefully reviewed the Public Offering Statement to ensure that it is an accurate summary but does not guarantee its accuracy. In the event of any inconsistency between the Public Offering Statement and the material it is intended to summarize, the latter will control.

Under Virginia Law [effective July 1, 1985] a Purchaser of a Time-Share is afforded a period of seven (7) calendar days during which he or she may cancel the contract of sale and obtain a full refund of any sums deposited in connection with the contract. [The period begins to run upon receipt of the Public Offering Statement or execution of the Purchase Agreement, whichever is later. If the purchaser elects to cancel, he or she must deliver notice of cancellation by hand or by United States mail, return receipt requested.]

The Purchaser ~~should~~ [would be well-advised to] inspect the Time-Share units and all facilities and obtain professional advice. The Purchase[r] should also make specific inquiries as to the experience of management and of any additional costs for their services.

The following are violations of Virginia law and should be reported to the Virginia Real Estate Board, 3600 West Broad Street, 5th floor, Richmond, Virginia 23230:

- a misrepresentation made in the Public Offering Statement
- an oral modification of the Public Offering Statement
- a representation that the Board has passed on the merits of the Time-shares being offered or endorses the time-share project.

PURCHASER SHOULD READ THIS DOCUMENT FOR HIS OWN PROTECTION

FIDELITY BOND TO INSURE ESCROW DEPOSITS

_____ ("Principal") has applied to the Real Estate Board of Virginia for registration of a time-share development to be called _____ located at _____ (Address), in the city of _____ (City), _____ (State).

1. It is hereby established that _____ ("Principal") and _____ ("Surety"), a surety company authorized to do business in the Commonwealth of Virginia ("Surety"), are held and firmly bound unto any person purchasing a time-share in Virginia from the Principal, his agents, employees or independent contractors in an amount equal to _____ in accordance with and subject to the provisions of § 55-375, Code of Virginia, as amended, and as may be amended from time to time.
2. Upon proper cancellation of the Purchase Agreement pursuant to the provisions of § 55-376, Code of Virginia, as amended, and upon default on the part of the Principal in the performance of any of the terms, covenants or conditions of its obligation to return to a purchaser the deposit held pursuant to § 55-375, Code of Virginia, as amended, the Surety shall become liable to the purchaser in the amount of his deposit towards the purchase of the time-share (not to exceed the amount of this Bond) to be paid not later than thirty days after notice to the Surety of its liability.
3. This Bond shall remain in full force and effect for a period of one (1) year from the date hereof and shall automatically renew itself from year to year thereafter unless and until _____ (Surety), _____ (City), _____ (State), shall have given thirty (30) days prior written notice to the purchaser and the Virginia Real Estate Board by certified mail, return receipt requested, of its intent to terminate the Bond at the expiration of said thirty (30) day period. During said thirty (30) day notice period, this Bond shall remain in full force and effect.
4. This Bond shall be maintained so long as the developer offers time-shares in the project for which this Bond is established.

5. In the event of any conflict between the terms of this Bond and the Virginia Real Estate Time-Share Act, the Time-Share Act shall prevail.

Signed and Sealed this _____ day of _____, 19 _____

(Developers Name and Address)

_____[Seal] _____[Seal]

Principal _____ Surety _____

For Office Use Only:									
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Check No.					Date				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DEPARTMENT OF COMMERCE
3600 WEST BROAD STREET, 5TH FLOOR
RICHMOND, VIRGINIA 23230



please print or type clearly

**APPLICATION FOR REGISTRATION
OF TIME-SHARE PROJECT**

Make checks payable to
"Treasurer of Virginia"

In accordance with §55-391, Code of Virginia, 1950, as amended, the undersigned requests registration of the following styled time-share project and, herewith, submits a registration fee in the amount of _____ (\$ _____).

REGISTRATION NO. _____

Date _____ by _____
Authorized Officer or Agent

I. NAME OF PROJECT _____

II. ADDRESS OF PROJECT _____

III. DEVELOPER:

A. NAME OF DEVELOPER _____

B. ADDRESS OF PRINCIPAL PLACE OF BUSINESS OF DEVELOPER:

(Telephone Number: AREA CODE _____ NUMBER _____)

EXHIBIT A: If Developer is a corporation, attach copy of Certificate of Incorporation or Certificate of Authority to Transact Business in Virginia issued by State Corporation Commission. If Developer is a partnership or joint venture, attach recording data for any partnership or joint venture agreement recorded. Otherwise, attach a certified statement of explanation. (Mark "EXHIBIT A.")

C. ADDRESS, TELEPHONE NUMBER AND NAME OF MANAGER OF EACH OFFICE OF DEVELOPER LOCATED WITHIN THE BOUNDS OF VIRGINIA:

(Address)	(Phone)	(Manager)
_____	_____	_____

(If additional space is required, complete on separate sheet of paper, attach and mark "Schedule III C.")

D. Name and address of each principal, officer, director, partner or trustee of the developer:

Name: _____ Title _____
 Residence Address: _____
 (continue to extent necessary in similar format on separate sheet of paper, attach and mark "Schedule III D.")

IV. VIOLATIONS, BANKRUPTCIES, DISCIPLINARY AND LITIGATIONS:

- A.** State whether, during the preceding five years, any of the individuals or entities named in III D above are or have been involved as defendants in any action before a federal, state, or foreign court or administrative agency, including a disciplinary proceeding before any governmental body or agency;
- B.** State whether, during the preceding five years, any of the individuals or entities named in III D above have been adjudicated a bankrupt or have undergone any proceeding for the relief of debtors.
 (Attach descriptive material and mark as "Schedule IV A or B", as applicable.)

V. DESCRIPTION OF THE PROJECT:

- A. TITLE TO LAND:**
A. Name and address of current owner of land: _____
 (If Developer is not record owner of land, attach a copy of any contract he has executed to purchase the land, any option he holds for purchase of the land or any lease under which he holds the land. Mark "Schedule V A.")
- B.** Recording reference for current deed for land: _____

EXHIBIT B: Attach a current title insurance policy or opinion issued within the preceding thirty days by a licensed attorney who is not a salaried employee, officer or director of the Developer or owner showing the condition of the title to the Time-Share project including all encumbrances against it. If the legal description of the land contained in the title insurance policy or opinion is not identical to the legal description of the land contained in the time-share project instruments, attach also a certification executed by a registered land surveyor or a licensed attorney that the submitted land described in the time-share project instruments is the same land as or lies wholly within the boundaries of the land described in the title insurance policy or opinion. (Mark "EXHIBIT B.")

B. BUILDING STATUS:

- 1.** Are all improvements on land filed as part of EXHIBIT B hereto completed? _____
- 2.** If answer to "A" above is affirmative, give approximate completion date and state that all current zoning and other government regulations concerning such improvements have been complied with or attach a written statement giving particulars of any instance in which such regulations have not been met. (Mark such statement "Schedule V B.2.")
- 3.** If answer to "A" above is negative:
- (A) Give the status of the following matters including the dates of any approval or applications if not approved:
- (1) Zoning compliance: _____
 - (2) Site plan: _____
 - (3) Building permit: _____
 - (4) Site preparation and building construction: _____

(B) Provide the information requested below with regard to proposed improvements:

- (1) Anticipated cost of completion of improvements: _____
- (2) Contract price, if any, with general contractor: _____
- (3) Source of construction funds and amount from each source: _____
- (4) If construction funds are or will be borrowed, state amount(s) for which loan commitment has been obtained from construction lender and amount(s) of loan proceeds not yet disbursed: _____
- (5) Attach copy of construction loan commitment. (Mark "Schedule V.B.3 (B) (5).") _____
- (6) State whether construction loan has been funded and, if not, state reasons: _____
- (7) If any construction loan is to be obtained or if any construction funds are to be obtained by a capital contribution to the Developer, provide a financial statement or other evidence of the availability to such lender or contributor of the funds to be lent or the capital to be contributed. (Mark "Schedule V.B.3 (B) (7).") _____
- (8) If any construction funds are to be obtained other than through a construction loan or a capital contribution, provide a financial statement or other evidence of availability to the Developer of the necessary funds. (Mark "Schedule V.B.3 (B) (8).") _____

C. PROJECT INFORMATION

- 1.** Number of units in the entire project: _____
- 2.** Number of units in the entire project which will be offered on a time-share basis: _____
- 3.** Will the purchasers of time-shares be offered membership in an exchange program? _____ If so, is the exchange service an affiliate of the developer? _____
 Name and address of exchange service: _____
- 4.** Is the program a conversion project? _____ If so, has the building(s) been occupied within the last three years? _____

VI. ADDITIONAL EXHIBITS

- EXHIBIT C:** Attach with all required and permitted exhibits, a copy of the proposed public offering statement complying with § 55-374 of the Virginia Code.
- EXHIBIT D:** Attach copies of time-share instruments and any documents referred to therein.
- EXHIBIT E:** Attach the irrevocable appointment of the Real Estate Commission to receive service of any proceeding arising under the provisions of §§ 55-360 through 55-400 of the Code of Virginia, 1950, as amended, against the Developer or his agent using the form provided for this purpose by the Commission.
- EXHIBIT F:** If the project is a conversion project, attach a notice and certified statement as required by § 55-374 (D), Code of Virginia, 1950, as amended.

NOTICE

Section 55-394, Code of Virginia, 1950, as amended, provides that the Developer shall immediately report any material changes in the information initially submitted to the Commission in the Application for Registration.

AFFIDAVIT

STATE OF _____)
) ss.
COUNTY OF _____)

_____, being duly sworn deposes and says: That the statements herein contained, and the documents herewith submitted are full, true and complete as of the date of execution hereof, and that he is the Developer of the time-share project for which application for registration is being made, or that he is the officer or agent authorized by the Developer to affix his signature hereto.

Affiant further deposes and says: That nothing done or planned in connection with the marketing of the time-share project for which application for registration is hereby made is or will be, to the best of his knowledge, contrary to the provisions of § 18.1-216, Code of Virginia, 1950, as amended.

Authorized Signature

Subscribed and sworn to before me this _____ day of _____, 19 _____ at

City or County and State

Officer Administering Oath

Notary public in County/City of _____ State of _____

My Commission expires _____

PENALTIES

Section 55-400, Penalties — Any person violating any of the provisions of §§ 55-374, 55-375, 55-376, 55-379, 55-381, 55-385 or any order issued pursuant to §§ 55-396 through 55-399 shall be guilty of a Class 2 misdemeanor. Each violation shall be deemed a separate offense.

EXHIBIT E:

IRREVOCABLE APPOINTMENT OF THE VIRGINIA REAL ESTATE COMMISSION TO RECEIVE SERVICE OF ANY LAWFUL PROCESS IN ANY PROCEEDING ARISING UNDER PROVISIONS OF SECTIONS 55-360 THROUGH 55-400, CODE OF VIRGINIA, 1950, AS AMENDED.

Name of Applicant: _____

Address of Applicant: _____

WHEREAS, the above-named Applicant has made application for registration of a time-share project known as _____ under provisions of Section 55-391, Code of Virginia, 1950, as amended.

WHEREAS, under provisions of said Section, it is required that each and every applicant for registration file an Irrevocable Appointment of the Virginia Real Estate Commission to Receive Service of Any Lawful Process in Any Proceedings Arising Incident to Any Time-Share Project Submitted for Registration by the Applicant with the Commission.

NOW, THEREFORE, I, the above-named applicant or authorized agent for the applicant, hereby execute and file with the Secretary of the Virginia Real Estate Commission on behalf of the Applicant full and irrevocable authority to receive service of any lawful process in any proceeding arising under Sections 55-360, Code of Virginia, 1950, as amended, in the name of the applicant, either individually, or co-partners or members of the applicant in any of the courts of record of the State of Virginia, and it is hereby stipulated and agreed that such service of such process on said Secretary shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant, its partners and members personally within the State of Virginia.

IN WITNESS WHEREOF, I _____, have hereunto signed by name this _____ day of _____, 19 _____.

Applicant

by _____
Authorized Agent or Officer

Subscribed and sworn to before me this _____ day of _____, 19 _____,

at _____
(City or county and state)

Officer Administering Oath

Notary Public in County/City of _____ State of _____

My commission expires _____

Final Regulations

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.

Effective Date: June 10, 1987

Summary:

These regulations (i) provide the standards for the practice of veterinary medicine and surgery in Virginia; (ii) establish the requirements for candidates for licensure as veterinarians and certification as veterinary technicians; and (iii) establish standards for the registration of facilities out of which the practice of veterinary medicine takes place.

The amendments 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 amendments give the regulations added flexibility to cover the changing nature of veterinary practice. They would (i) reduce the cost of animal facilities to the limited-service practitioner; (ii) 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; and (iii) 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 veterinary 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 [, which includes legend drugs that bear the warning "Caution, Federal Law restricts this drug to use by or on the order of a licensed veterinarian] .

"Inactive Practitioner" means a veterinarian currently licensed by the board but not actively engaged in the practice of veterinary medicine in the Commonwealth.

"Practitioner" means a veterinarian currently licensed by the board.

"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. [A preceptor shall not diagnose, prescribe, or perform surgery.]

"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.

"Veterinarian in charge" means the licensed veterinarian at each registered animal facility who is responsible for maintaining the facility within the standards for facilities set by the regulations, for complying with federal and state drug laws, and for notifying the board of the facility's closure.

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

§ 1.2. Public participation guidelines.

A. Mailing list.

The executive director of the board shall 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 veterinary] technicians and animal facilities.

A. Register of practitioners and [animal veterinary] technicians.

The executive director as directed by the board shall record in a book to be kept for such purposes, the names of all practitioners of veterinary medicine and holders of certificates as [animal veterinary] 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 veterinary] 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 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 veterinary] 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.

Completed applications for certification and licensure shall be filed with the board office at least 45 days prior to the announced date of the examination.

§ 1.5. Records.

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.

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§ 1.6. Issuance of licenses and certificates.

The board shall issue to each applicant who shall pass the examination for licensure as a veterinarian or certification as an [~~animal~~ veterinary] 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.

A. Every person authorized by the board to practice veterinary medicine shall, on February 28 of every year, pay to the board a renewal fee as prescribed in § 1.10 of these regulations and every holder of a certificate of [~~animal~~ veterinary] 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~~ veterinary] 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~~ veterinary] 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 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 60 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 permit annually and pay to the board a registration fee as prescribed in § 1.10 of these regulations.

2. Failure to renew the facility permit by February 28 of each year shall cause the permit to expire and become invalid. The permit 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 permit 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 60 days prior to the proposed opening date of the 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.

A. Veterinarians.

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

2. Each licensed veterinarian administering, prescribing or dispensing Scheduled II-V drugs shall obtain and maintain on the premises a controlled substances registration certificate from the Virginia Board of Pharmacy.

B. [~~Animal~~ Veterinary] technicians.

Each certified [~~animal~~ veterinary] technician shall publicly post his current Virginia certificate as [~~animal~~ veterinary] technician at the facility of the employing veterinarian.

C. Animal facilities.

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

§ 1.9. Reinstatement.

Any person whose license to practice veterinary medicine or certificate to act as an [~~animal~~ veterinary] 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.

Veterinary examination fee	\$125.
Veterinary license fee (active)	\$125.
Veterinary license fee (inactive)	\$50.

Veterinary license renewal late fee	\$25.
Veterinarian Reinstatement fee	\$250.
[Animal Veterinary] technician examination fee	\$75.
[Animal Veterinary] technician certificate fee	[\$30. \$25.]
[Animal Veterinary] technician certificate renewal late fee	\$10.
[Animal Veterinary] technician reinstatement fee ..	\$50.
Animal facility permit registration fee	\$50.
Animal facility renewal fee	\$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.

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 45 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 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; and

e. Certification [of good standing] by each board

from which the applicant holds a license to practice veterinary medicine.

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 embrace such subjects as the board shall from time to time prescribe.

4. Have committed no acts which would constitute a 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 prior to the date of application and who is licensed in another jurisdiction provided that:

1. The applicant passes the national clinical competency test, provided, 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;

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, with such endorsement being 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 national board examination, clinical competency test scores, and the transcripts 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 45 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 the

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application, and a fee in the amount prescribed in § 1.10.

§ 2.2. Requirements for practical training in a preceptorship.

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

1. 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.

2. 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. [A preceptor shall not diagnose, prescribe, or perform surgery.]

§ 2.3. Unprofessional conduct.

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

1. 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.

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

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

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

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

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

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

8. Violating any state law, federal law, or board regulation pertaining to the dispensing or recordkeeping requirement, or both, for controlled substances.

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

10. Permitting a person other than a licensed veterinarian, certified [animal veterinary] technician, or person otherwise duly certified in x-ray technology to operate diagnostic radiographic equipment.

11. Permitting a person other than a licensed veterinarian or a certified [animal veterinary] technician to induce anesthesia.

12. 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.

13. Failing to pay any required fees.

14. Failing to pay board-imposed fines.

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

[16. Failing to exercise a reasonable degree of care, skill and diligence in treating patients as are ordinarily used in the same or similar circumstances by members of the veterinary medical profession in good standing in the Commonwealth of Virginia.]

[17.] Prescribing or dispensing drugs, or both, for human use.

[17. Allowing a preceptee to diagnose, prescribe, or perform surgery unless under the direct, on-premises supervision of a licensed veterinarian.]

PART III. CERTIFIED [ANIMAL VETERINARY] TECHNICIANS.

§ 3.1. Requirements for certification as [animal veterinary] technician.

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

1. Have received a degree in [animal veterinary] technology from a college or school approved by the American Veterinary Medical Association;

2. File the following documents with the board at least 45 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~~ veterinary] 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, for the examination fee and the applicable certification fee; and

e. Certification by each board from which the applicant holds a certificate/registration to practice animal technology.

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

a. The national board examination for [~~animal~~ veterinary] 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, at its discretion, may also 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~~ veterinary] technician in another state whose requirements are at least equal to those of Virginia; and

4. The applicant ensures that the board is furnished 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 national board scores and transcript required pursuant to this regulations 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~~ veterinary] 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 of these regulations.

§ 3.2. Unprofessional conduct.

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

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

2. Practicing [~~animal~~ veterinary] technology in an animal facility that is not currently registered. This shall not apply to emergency situations.

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

4. Diagnosing, performing surgery, or prescribing drugs.

PART IV. ANIMAL FACILITIES.

§ 4.1. Requirements to be registered as an animal facility.

A. Applications must be made to the board 60 days in advance of opening or changing the location or [~~name~~ designating a veterinarian in charge] of the facility. [Mobile animal facilities operating out of a permitted facility need not make separate application to obtain a separate permit. Mobile animal facilities operating independently of a permitted facility must make application.]

B. No animal facility will be registered by the board unless:

1. It is first inspected by the board and is found to meet the standards set forth by § 4.2 of these regulations where applicable. If, during a new or routine facility inspection, violations or deficiencies

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are found necessitating a reinspection, the prescribed reinspection fee will be levied. Failure to pay the fee shall be deemed unprofessional conduct and, until paid, the facility shall be deemed to be unregistered.

2. A veterinarian currently licensed by and in good standing with the board is registered with the board in writing as veterinarian-in-charge and has paid the facility registration fee.

a. The veterinarian-in-charge is responsible for:

(1) "Maintaining the facility within the standards set forth by § 4.2 of these regulations;

(2) Performing the biennial controlled substance inventory and ensuring compliance at the facility with any federal or state law relating to controlled substances as defined in § 54-524.2 of the Drug Control Act.

(3) Notifying the board of the closure of the permitted facility.

[(4) Performing an inventory of all Schedule II-V drugs on hand. Such inventory shall be completed as of the date he becomes veterinarian-in-charge and prior to opening for business.

(5) Notifying the board of the changed name of a facility within 10 days of the change.]

b. Upon any change in the veterinarian-in-charge, the facility permit previously issued shall be void and shall be returned to the board immediately. An application for a new permit shall be made in advance or within 10 days of the change of the veterinarian-in-charge.

§ 4.2. Standards for facilities.

A. Every animal facility must have a permit. All facilities shall meet the requirements of this regulation, 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 [between 59°F and 86°F] consistent with the medical well-being of the patients.

b. Ventilation. The facility shall be equipped with the capacity to ventilate [consistent with the medical well-being of the animals].

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 of drinking quality, as defined] by the Virginia Department of Health;

(2) [Sanitary] toilet and lavatory [approved by the Virginia Department of Health] for the personnel and for the clients;

(3) [A An acceptable] method of disposal of deceased animals; and

(4) Refrigeration exclusively for carcasses of companion animals that require storage for 24 hours or more.

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

a. A reception area separate from other designated rooms;

b. Examination room(s);

c. Surgery. Surgery shall be performed in a room which is reserved only for surgery and used for no other purpose. Surgery shall not serve as a corridor. 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 laboratory service or consultant laboratory services for performing the following lab tests, consistent with appropriate professional care for the species treated:

(1) Urinalysis, including microscopic examination of sediment;

(2) Complete blood count [, including differential];

(3) Flotation test for ova of internal parasites;

(4) Skin scrapings for diagnosing 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. These shall be provided with:

(1) Separate compartments constructed [of nonporous materials in such a way as to prevent residential contamination];

(2) Accommodations allowing for the effective separation of contagious and noncontagious patients by July 1, 1989. As a minimum, there shall be a room that can be accessed without the animal passing through another animal ward or holding area; and

(3) Exercise runs which provide and allow effective separation of animals. (In lieu of exercise runs, documentation of 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 safety caps shall not be required when any person who requests that the medication not have a safety cap, or in such cases in which the medication is of such form or size that it cannot be reasonably dispensed 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, that a working stock of Schedule II drugs under separate lock may be accessible to the certified [~~animal~~ veterinary] technician.

(2) Whenever a veterinarian discovers a theft or any unusual loss of Schedules 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. Schedules II, III, IV and V drugs may be destroyed only by an investigator of the Virginia Department of Health Regulatory Boards of 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. Recordkeeping. Every veterinarian shall keep a written daily record of the animals he treats. This record shall include pertinent medical data such as drugs administered, dispensed or prescribed, 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. An animal identification system must be used by the facility.

d. A distribution record shall be maintained in addition to the patient's record, in chronological order, for the administration and dispensing of all Schedule II-V drugs. This record shall include the:

(1) Date of transaction;

(2) Drug name, strength, and the amount dispensed, administered, or wasted;

(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.

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e. Invoices for all Schedules II, III, IV and V drugs received shall be maintained in chronological order 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.

f. A complete and accurate inventory of all Schedule II, III, IV and V drugs shall be taken, dated, and signed on the same day every two years. Drug strength must be specified. 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. Document that radiographic equipment complies with all requirements of Section 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; and*
- (3) Sanitizing solution.*

b. Surgery suite:

- (1) Surgical table with nonporous surface;*
- (2) Surgical supplies, instruments and equipment commensurate with the kind of surgical services provided;*
- (3) Circle gas anesthesia machine, utilizing an anesthetic vaporizer, by July 1, 1989;*

(4) Automatic emergency lighting;

(5) Surgical lighting;

(6) Instrument table, stand, or tray; and

(7) Waste receptacle.

c. Radiology:

(1) Lead aprons;

(2) Lead gloves;

(3) Radiation exposure badges;

(4) X-ray machine.

d. Drug storage area:

(1) Refrigerator, with interior thermometer maintained between 36°F and 46°F;

(2) Locked storage for Schedule II drugs.

(3) Drugs stored at room temperature shall be maintained between 59°F and 86°F.

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; and

(11) Refrigerator for storage of carcasses.

Items 7 [(a) and] (b), (8), (9), (10) and (11) are not required for large animal [or] ambulatory facilities.

B. All facilities shall meet the above requirements except in instances in which the scope of practice is limited. An application requesting a specifically restricted facility permit shall be made to the board. Upon satisfactory inspection and payment of the permit fee, a restricted facility permit will be issued. Such restricted facilities shall 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 certificate.

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

1. The board finds the facility to be in violation of § 1.7 "Renewal requirements";
2. The board finds the facility to be in violation of § 4.2 "Standards for facilities";
3. The board or its agents are denied access to the facility to conduct an inspection;
4. The licensee does not pay any and all prescribed fees;
5. Performing procedures beyond the scope of a restricted facility permit; or
6. The facility has no veterinarian-in-charge registered at the facility.

B. The Administrative Process Act, Chapter 1.1:1 (9-6.14:1 et seq.) of Title 9 of the Code of Virginia, shall apply to any determination under § 4.3.

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.

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-11-03. Water Resources Policy.

Statutory Authority: § 62.1-44.38 of the Code of Virginia.

Effective Date: June 10, 1987

Summary:

The Water Resources Policy is a statement of broad water resource management principles. It provides guidance to the agency staff in preparing water resource management plans, advising on the adequacy and desirability of water resource projects, authorizing specific water resource projects or in commenting on projects which affect water resources.

VR 680-11-03. Water Resources Policy.

~~1-0~~ § 1. Whereas The State Water Control Board finds that the Virginia water resource policy must be based upon the following broad precepts of natural and man-made law and must recognize natural conditions and the distribution and growth of Virginia's population and industry:

- ~~1-1~~ 1. Virginia's hydrographic conditions are diverse, ranging from "mountain streams" to open ocean.
- ~~1-2~~ 2. Natural salinity varies from near zero to that of the open ocean.
- ~~1-3~~ 3. Natural rainfall in Virginia is such that total fresh water production far exceeds any foreseeable needs; however, accidents of times and geography may produce short-term ~~and/~~ or geographic surpluses (flood) or deficits (drought).
- ~~1-4~~ 4. Flood plains are the natural relief mechanism for surface streams.
- ~~1-5~~ 5. Virginia has extensive ~~groundwater~~ *ground water* resources but these resources are not uniformly distributed, and are subject to depletion and pollution through use and to saline intrusion in coastal areas.
- ~~1-6~~ 6. Quality of surface flows is, to a degree, dependent upon quantities of flow, natural pollution sources and, in part, activities of man.
- ~~1-7~~ 7. Water is a reusable multi-purpose resource.
- ~~1-8~~ 8. Development and use of water resources should be based on sound planning.
- ~~1-9~~ 9. Water resources use is affected by and affects land resource management and population and economic growth.
- ~~1-10~~ 10. Use of ~~groundwater~~ *ground water* and use of surface waters are interdependent functions.
- ~~1-11~~ 11. ~~Waste water~~ *Wastewater*, in many cases, can be safely and economically reclaimed for a variety of beneficial uses, including agricultural and industrial uses.
- ~~1-12~~ 12. Municipal and industrial demands for water are relatively "constant" whereas the quantities of

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unmanaged supplies, particularly surface waters, are variable.

~~1-13~~ 13. ~~Virginia must act to protect its water resources and the ecosystems dependent upon them from unnecessary pollution, degradation or destruction~~ For the maximum social and economic benefits to all the citizens of the Commonwealth, *Virginia must act to protect its water resources and the ecosystems dependent-upon them from unnecessary pollution, degradation or destruction*. The needs of Virginia's citizens for water resources should be met in such a manner as to preserve these water related environments to the greatest possible degree.

~~1-14~~ 14. State constitutional provisions, statutes and common law constrain water resources use (see Table 1).

~~1-15~~ 15. Federal constitutional provisions and federal statutes constrain and influence water resources use at state level (see Table 2).

~~1-16~~ 16. Potential sites for reservoirs for flood control and water supply are limited and the need for their preservation must be recognized by the Commonwealth so that their use for these purposes, if it is consistent with ecological and scenic considerations, will not be precluded ~~because by~~ uncontrolled development on these sites ~~will cause~~ *causing* them to become too expensive for use as reservoirs.

2-0 § 2. The board is ~~establishing~~ *has established* its Water Resources Policy in order to fulfill its statutory responsibilities ~~to: under § 62.1-44.36 of the Code of Virginia, as follows:~~

2-1 1. Assure, insofar as possible, that domestic, municipal, industrial, agricultural and other water quality and quantity needs are met at all times consistent with the responsibility of the *State Commonwealth* to protect the natural values of Virginia's water resources, and to assure equitable allocation in times of shortage consistent with the requirements of Virginia law.

2-2 2. Protect wetlands in recognition of the dependence of these natural systems upon suitable water quality and in recognition of the contribution of these natural systems to natural values.

2-3 3. Recognize the importance of water transportation to the economy and recreation, and to assure the optimum use of the waterways of Virginia.

2-4 4. Recognize and foster the unique and diverse role of water in recreation.

2-5 5. To the maximum extent practicable, minimize hazards from floods to human life and to economic and natural values.

~~2-6~~ 6. Assure that ~~groundwater~~ *ground water* withdrawals do not, on the average, exceed recharge, and protect any existing common law or statutory rights to use of ~~groundwater~~ *ground waters*.

~~2-7~~ 7. Provide policy guidance on the allocation of ~~groundwater~~ *ground water* in considering the issuance of ~~groundwater~~ *ground water* permits within ~~critical groundwater areas~~ *Groundwater Management Areas* under § 62.1-644.100 of the Groundwater Act of 1973 *as amended*.

~~2-8~~ 8. Exercise the responsibility of the *State Commonwealth* within the framework of the existing common law riparian rights of land owners.

~~2-9~~ 9. Evaluate the effect of projects and structures on:

2-0-1 a. Flexibility in future water resource use and project operation;

2-0-2 b. Cost effectiveness within the realistic alternatives available and within the constraints of public health and public safety;

2-0-3 c. Man-made historic and the natural environments;

2-0-4 d. The recommendations of other agencies with an interest in the projects and structures;

2-0-5 e. Local, regional and statewide land use plans and growth policies.

~~2-10~~ 10. Minimize the bureaucratic process in order to facilitate cost effective implementation of water resources policy.

~~2-11~~ 11. Assure that *the* management demands of a water resource project do not exceed the capability of that unit of government responsible for its operation and maintenance.

~~2-12~~ 12. Take advantage of all federal water resource programs to the extent that these programs can provide timely assistance.

~~2-13~~ 13. Promote technological innovations and be responsive to the institution of such advancements.

~~2-14~~ 14. Encourage maximum public participation in the formulation and implementation of specific plans and projects.

~~2-15~~ 15. Recognize the importance of the preservation of critical reservoir sites for future water needs.

2-0 § 3. Governed by these precepts and in order to fulfill its statutory responsibilities in the development of the

Water Resources Policy, the board hereby adopts will observe the following specific policies for its use in the preparation of preparing Water Resource Management Plans, advising on the adequacy-desirability adequacy and desirability of water resource projects, and authorizing specific water resource projects or in commenting on projects which affect water resources.

3.1 A. Natural water sources (groundwater ground water and surface water).

3.1-1 1. Community, natural resource and transportation development should proceed in such a way that the adverse effect on runoff (rates, quality and quantity) and groundwater ground water recharge are minimized and , that remedial structures (such as spreading basins and flow retarding structures) are incorporated as permanent features of developments and that adequate financial and legal provisions are made for the maintenance of such structures.

3.1-2 2. Total withdrawals from coastal zone aquifers should be limited to such a quantity as to prevent the intrusion of salinity beyond the limit determined acceptable for the beneficial uses of the aquifer.

3.1-3 3. Total withdrawals from a specific aquifer shall not exceed estimated recharge except for short (one or two year) periods of time: the divergence should not be so great as to affect unreasonably legal rights to withdrawal or to affect the capability of the aquifer to be recharged fully in the future.

4. Conjunctive use of ground water and surface water is encouraged.

3.2 B. Beneficial use and public benefit.

3.2-1 1. The natural values and natural processes occurring in water resources in an undisturbed state constitute a substantial social and economic benefit to the citizens of the Commonwealth, and protection of these processes should be considered in any resource management plan.

3.2-2 2. The public shall have full access to future facilities paid for by general public funds to the extent that such access is compatible with project purposes and to the extent that the primary purpose of the facility is not defeated.

3.2-3 3. Once a project site has been approved by the board it will be a policy of the board to encourage preservation of the site by other state agencies.

3.2-4 4. Flow releases from reservoirs for the purpose of maintaining minimum flows necessary for prevention of eutrophic conditions (due to natural sources); and for protection of fish, and wildlife values, marine organisms; and protection of aesthetic values will be considered as beneficial uses.

3.2-5 5. Generation of electricity by hydropower, both in conventional and pump pumped storage developments, is considered a beneficial use of water resources provided that the system is so operated that neither maximum nor minimum operations flow releases are unreasonable and so that the rate of flow does not change so rapidly as to be hazardous.

3.2-6 6. Water resource projects and sewerage systems shall be so designed, operated and maintained that hazards of to health, public safety and environmental values are minimized.

3.2-7 7. The consideration of water resources projects by the board shall include coordination with other public agencies in order to insure ensure that all relevant public policy and formal standards will have an appropriate bearing on the final decision.

3.3 C. Environmental protection.

3.3-1 1. The long term protection of the environment shall be the guiding criterion in decisions relating to water and related land resources.

3.3-2 2. Channel management projects should be designed, constructed and operated in such a way as to minimize, and preferable to avoid, both short term and long term adverse environmental effects; the capability of water resources to absorb change shall be a designed constraint for such projects (e.g. erosion during construction).

3.3-3 3. Agricultural and urban channelization projects in natural water courses should be limited in size to that essential for the protection of property and should be developed and for constructed in such a way that fish and wildlife and aesthetic values and are protected, that erosion and flood hazards are not increased, and that groundwater ground water is not adversely affected.

3.3-4 4. Water resource projects and sewerage system plans shall be accompanied by an adequate environmental evaluation.

3.4 D. Pollution and wasteful use.

3.4-1 1. Industrial processes should be designed to minimize system demand through reuse and process change and to minimize discharge of wastes. As a goal the board favors the design of industrial processes with minimum withdrawal.

3.4-2 2. Flow releases from reservoir systems to dilute wastes are not to be considered as a substitute for adequate treatment of waste from industry, agriculture or municipalities.

3.4-3 3. No water storage reservoir project will be endorsed or approved unless accompanied by adequate

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plans and programs for safeguarding reservoir storage from loss through sedimentation from upstream erosion and shoreline erosion associated with a project, which may include the use of upstream sedimentation basins and for the control of pollutants from all sources. Any such plan and project shall have adequate legal and financial support.

3-4-4 4. Plumbing and building codes should prevent needless waste of water, without interfering with maintenance of health values. (see Table 1 - Virginia Uniform Statewide Building Code). Metering of municipal water deliveries to users should be essential *is encouraged* .

3-4-5 5. The discharge of pollutants into deep ~~groundwater~~ *ground water* aquifers shall be contrary to board policy except that brine derived from *naturally saline* aquifers may be returned to these aquifers and chemicals and water may be used in connection with the exploration for and development of water, brines, oil and natural gas to the extent that such uses do not result in pollution of ~~groundwater~~ *ground water* .

3-4-6 6. Spoils produced from original dredging and channel maintenance projects should not be disposed of in any manner that would in itself adversely modify circulation in estuaries or wetlands. Installation and maintenance of drainage ditches, including disposition of any spoils produced thereby, or use of drain tile is permissible in managing wet or soggy agricultural lands.

3-4-7 7. Fail-safe type mechanisms should be provided for all facilities designed to store substances which might be hazardous to stream environment or to ~~groundwater~~ *ground water* .

3-4-8 8. Fail-safe devices shall be incorporated in the construction of wastewater treatment facilities to prevent discharges which would create a potential hazard to downstream uses.

All sewer systems shall be so designed and operated that bypassing occurs only under emergency conditions and that nearby residents and official agencies are informed and alerted whenever such bypassing of raw sewage occurs.

3-5 E. Water supply and storage.

3-5-1 1. Municipal areas should have adequate off-stream raw water storage. The amount of storage should be governed by such factors as community size and demand, hydrographic characteristics of the supply area(s) (including well fields) and susceptibility to accidental contamination.

3-5-2 2. Water systems should be interconnected whenever practicable in order that they may mutually

support or aid each other in emergency situations, and assure the best possible uses of available surface and ~~groundwater~~ *ground water* resources. In order to ~~insure~~ *ensure* reliability and safety the use or development of multiple or alternate sources should be considered.

3-5-3 3. The use of reclaimed water should be considered in water resources planning for urban areas ~~providing~~ *provided* such uses are compatible with the public's health and safety. Acceptable uses which should be considered are:

1. ~~a.~~ Cooling waters
2. ~~b.~~ Agricultural
3. ~~c.~~ Irrigation
4. ~~d.~~ Industrial
5. ~~e.~~ Recreational

The direct reuse of sewage effluents as a raw domestic water source is not recommended ~~or~~ *condoned* .

3-5-4 4. The use of ~~reservoir surfaces~~ *reservoirs* for all compatible uses including recreation, municipal and industrial water supply and fish/wildlife management, and the use of reservoir shoreline for all purposes shall be subject to community/project controls which will protect the reservoir against pollution from runoff or discharges from point sources, and to zoning controls which will preserve agreed-upon aesthetic values.

3-5-5 5. Subsurface storage and ~~groundwater~~ *ground water* recharge should be encouraged subject to the provisions that such practices do not cause pollution of underground water resources.

3-5-6 6. Municipal sewage treatment plants shall, whenever possible, be ~~so~~ located to permit the beneficial reuse of effluents for the purposes set forth in subparagraph 3-5-3 3 above.

3-5-7 7. Criteria for guidance in the withdrawal and use of ~~groundwater~~ *ground water* should be considered as follows:

3-5-7-1 a. The relationships between ~~groundwater~~ *ground water* and surface water in the area.

3-5-7-2 b. Information relating to the planned use of the ~~groundwater~~ *ground water* , considering use for domestic drinking water as of greatest importance.

3-5-7-3 c. The economic effects involved in both the withdrawal and nonwithdrawal of ~~groundwater~~ *ground water* on the area and the State

Commonwealth .

~~3.5-7.4~~ d. The urgency of the need for ~~groundwater~~ ground water in a given area.

~~3.5-8~~ 8. ~~Provide~~ The board encourages provision of the highest degree of protection for the capacity and quality of reservoirs and storage through programs designed to assure reliable waste treatment systems, effective erosion and runoff controls, and effective control of quality of runoff in newly developed areas.

3.6 F. Flood plains and flood control.

3.6-1 1. Development of permanent, private or public structures should be discouraged on the flood plains unless there are overriding economic or social justifications for such development and compatible facilities are designed to withstand inundation and provide for the safety of the users *people and property* .

3.6-2 2. Communities and individuals should make optimum use of flood plain insurance and the level(s) of participation will be considered by the board in recommending protection measures.

Existing or authorized development of the flood plain should be protected *at a minimum* from a flood with a recurrence interval of 100 years.

3.6-3 3. Flood control measures approved or recommended for any *given* community shall incorporate a cost-effective mix of reservoirs, dry dams, protective levees, structure flood proofing, flood plain zoning and other measures necessary for preservation of environmental values including historic sites.

3.6-4 4. Any proposals for ~~additional development new~~ construction of water or sewerage systems in defined flood plains, with the exception of limited park and recreational facilities or agricultural uses, should be discouraged.

3.6-5 5. In the flood plain, construction of facilities designed to store substances which might be hazardous to the stream environment ~~should be~~ is discouraged.

3.6-6 6. In approving sewerage projects, the board will consider the extent to which the proposed project will result in increased erosion, changes in the rate and amount of surface runoff, changes in the development-induced quality of runoff, and increased exposure to flood damage.

3.7 G. Financial consideration.

3.7-1 1. Project costs (both nonrecurring and recurring), to the extent not financed by Federal and State programs, should be apportioned equitably

among the *identifiable* project beneficiaries.

3.7-2 2. No community or area of Virginia, in the development or management of a water resource project, shall unduly place any hardship on another community or area without just compensation. The board in acting on a water resource project will consider the extent to which such inequities may be present and the steps, financial and otherwise, necessary to alleviate both short and long range consequences of such inequities. Compensation of individuals disrupted by water resource projects necessarily includes, to the extent reasonably possible, subjective as well as objective valuation factors.

3.7-3 3. Beneficiaries of water resource structures and projects shall be encouraged to adopt user charges ~~which shall~~ be based upon the total recurring and nonrecurring costs of the structures or projects.

3.8 H. Wetlands.

3.8-1 1. It is the policy of the State Water Control Board to preserve the wetland ecosystems, both tidal and nontidal, and to protect them from destruction.

4.0 § 4. The board may, from time to time and after public hearing, adopt, modify, amend or rescind any policy contained herein. Such action may be taken on the board's own motion or by virtue of a citizen action if presented in a manner acceptable to the board. Nothing in this Water Resource Policy statement in any way negates previous specific policy statements of the board.

The board will review this policy triennially.

TABLE 1
State Legislation Relating to Virginia's Water Resources

NAME:

Sections 1 and 2, Article XI (Conservation, Virginia State Constitution) States:

DESCRIPTION:

Section 1 - "To the end that the people have clean air, pure water, and the use and enjoyment for recreation of adequate public lands, waters, and other natural resources, it shall be the policy of the Commonwealth to conserve, develop, and utilize its natural resources, its public lands, and its historical sites and building. Further, it shall be the Commonwealth's policy to protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth."

Section 2 - "In the furtherance of such policy, the General Assembly may undertake the conservation, development, or utilization of lands or natural resources of the Commonwealth, the acquisition and protection of historical sites and buildings, and the protection of its atmosphere,

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lands, and waters from pollution, impairment, or destruction; by agencies of the Commonwealth or by the creation of public authorities, or by leases or other contracts with agencies of the United States, with other states, with units of government in the Commonwealth, or with private persons or corporations. Notwithstanding the time limitations of the provisions of Article X, Section 7, of this Constitution, the Commonwealth may participate for any period of years in the cost of projects which shall be the subject of a joint undertaking between the Commonwealth and any agency of the United States or of other states."

NAME:

Waters of the State, Ports and Harbors - Title 62.

DESCRIPTION:

Declares that the waterways of the Commonwealth are to remain the property of the Commonwealth and may be used as a common by all people of the State for fishing and fowling and catching shellfish. Refers to State policy as to waters, public water supply, hydroelectric dams, authorities and commissions, wharves, water safety, etc.

NAME:

State Water Control Law Section 62.1-44.2 to 62.1-44.34

DESCRIPTION:

States that it is the policy of the Commonwealth to maintain all State waters in, or restore them to, such condition of quality to permit all public uses and support the propagation and growth of aquatic life; safeguard the clean waters of the State from pollution; prevent any increase in pollution; and; reduce existing pollution.

NAME:

Marine Resources Law - Section 28.1-1 to 28.1-22

DESCRIPTION:

Organized the Commission of Marine Resources to make regulations to promote the general welfare of the seafood industry and to conserve and promote the seafood and marine resources of the State. The Commission has the power to establish a license for any device used for the taking of seafood in the waters of the State.

NAME:

Wetlands Act Policy - Section 62.1-13.1 to 62.1-13.20

DESCRIPTION:

Relates generally to protection of Virginia Wetlands, prescribes a Wetlands Ordinance, provides for the creation of Wetlands Boards, requires permits for certain activities and provides for review and appeal of decisions regarding permits.

NAME:

State Policy as to Water - Section 62.1-11

DESCRIPTION:

States that the regulation, control development, and use of

waters for all purposes beneficial to the public are within the jurisdiction of the State. These resources should be put to uses beneficial to the public to the extent of which they are capable; the waste or unreasonable use should be prevented; and the conservation of such water is to be exercised.

NAME:

Groundwater Act of 1973 - Section 62.1-44.45

DESCRIPTION:

Authorizes the State Water Control Board and the State Health Department to regulate and control the use of groundwater in certain areas; authorizes the Board to issue permits to draw groundwater, includes provisions that the Board shall determine the geographical areas of the State which can be considered critical groundwater areas.

NAME:

Soil and Water Conservation District Laws - Section 21-1 to 21-122.21

DESCRIPTION:

The law recognizes that the preservation of land is necessary to promote the health, safety and general welfare of the people of the State. To this end, a policy is declared to provide for the conservation of the soil and soil resources of the State, for the control and prevention of soil erosion, prevention of floodwater and sediment damages, and furthering agricultural phases of the conservation, development, utilization and disposal of water.

To these ends, the law provides for the Virginia Soil and Water Conservation Commission to coordinate and assist the various soil and water conservation districts under the law. Such districts constitute governmental subdivisions of the State and have the power to develop comprehensive programs and plans for the conservation of soil and water resources and flood prevention.

NAME:

Erosion and Sediment Control Law - Section 21-433 to 21-450

DESCRIPTION:

Requires the development of a comprehensive and statewide program to protect the State's waters from sedimentation. The Soil and Water conservation Commission is to establish minimum standards for the control of soil erosion, sediment deposition and non-agricultural runoff.

NAME:

Hydroelectric Power Dams and Works - Section 62.1-80

DESCRIPTION:

Gives the State Corporation Commission jurisdiction over all hydroelectric power dams in the State constructed after January 1, 1928, in order to utilize the State's resources to the greatest extent and to control the construction or

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reconstruction of a dam in any of the State's waters for the generation of hydroelectric energy.

NAME:
Virginia Marine Resources Commission Powers Over Subaqueous Bed - Section 62-1-3

DESCRIPTION:
States that it is unlawful for anyone to build, dump or otherwise encroach upon the beds of the bays, rivers, creeks and shores of the State without first obtaining authority from the Marine Resources Commission except for previously authorized purposes such as the authorized erection of dams; uses incident to the construction and maintenance of approved navigation and flood control projects; uses of subaqueous beds authorized under the provisions of Title 28-1 of the Code; piers, docks, marine terminals and port facilities owned or leased by or to the State; fills by riparian owners opposite their property to any established bulkhead line (with a certificate of assurance from the State Water Control Board); the placement of private piers for non-commercial purposes by owners of riparian lands in waters opposite these lands (with length limitations); causing the removal of silt and other waste material inside an established bulkhead line by riparian owners incident to the construction and use of graving docks, dry docks or other shipbuilding facility (with a certificate of assurance from the State Water Control Board).

NAME:
Riparian Doctrine

DESCRIPTION:
The collection of principles which govern the use of Virginia's waterways; a common law system of water rights based on the ownership of land traversed or bordered by a natural watercourse. The Riparian Doctrine gives a proprietor the right to make any reasonable use of the water of a stream in connection with this riparian estate and for lawful purposes within the watershed, provided he leaves the flow diminished by no more than is reasonable.

NAME:
Hampton Roads Sanitation District Act - Section 21-201

DESCRIPTION:
Validates the creation of the Hampton Roads Sanitation District and its commission; authorizes the construction, maintenance and operation of a sewerage system; authorizes the commission to restrain, enjoin or otherwise prevent the pollution of any waters in the District.

NAME:
Sanitation Districts Law - Section 21-112, 21-140.2

DESCRIPTION:
Has the control of pollution as its stated purpose and authorizes the creation of special districts to provide facilities for the treatment of wastes; and contains a

provision making unlawful the discharge of polluting matter into the waters of any sanitation district when the district has complied with the terms of the law regarding public notice.

NAME:
Sanitation Districts Law of 1946 - Non-Tidal Waters - Section 21-224 to 21-200

DESCRIPTION:
Makes provisions for the creation of sanitation districts in areas where there are rivers, creeks or other watercourses not affected by tidal flows; sets forth procedures for the creation of such districts. Also, puts forth rules and standards for the creation, operation and power of the commissions.

NAME:
Scenic Rivers Act (1970) - Section 10-167 to 10-175

DESCRIPTION:
The Act declares that rivers, streams, runs and waterways including their shores and immediate environs constitute natural resources and the conservation of these resources constitutes a beneficial use. To these end, the Act provides for a Virginia Scenic Rivers System. After a detailed study of the rivers, a report by the Commission of Outdoor Recreation in cooperation with the State Water Control Board and other agencies, and public hearings, if requested, a river can be included by the General Assembly into the system. Once designated a Scenic River, the natural flow of the stream may not be altered except by specific authorization of the General Assembly.

NAME:
Game, Inland Fisheries and Dogs Act - Section 20-25-1-20-36.2

DESCRIPTION:
Provides that any game warden of the State may take samples of water that he has reason to believe is polluted to the State Water Control Board, whereby the Board shall have a chemical analysis made. If these studies show the water to be polluted, further analyses should be made by the Board to determine the extent of such pollution and the most effective measures for controlling the same.

NAME:
Public Health Law - Section 32.9

DESCRIPTION:
States that the State Board of Health may regulate and prescribe the method or methods of disposition of sewage in this State, and is authorized and directed through joint studies with authorized representatives of common carriers to consider and investigate control devices to control the discharge of human waste.

NAME:
Public Water Supply - the Section 62-1-46

Final Regulations

DESCRIPTION:

Gives the State Board of Health authority for the "supervision and control over all water supplies and waterworks in the State insofar as the sanitary and physical quality of waters furnished for drinking or domestic purposes may affect the public health, and may require that all water supplies be pure water." This is set up through regulations of the Board of Health, examination of water supplies, permits, investigations, injunctions, revocation of permits, hearings, appeals and emergency orders of the State Health Commissioner.

NAME:

Counties, Cities and Towns Public Utilities - Title 15-1, Chapter 0

DESCRIPTION:

Gives the governing body of every county, city and town the authority to obtain control of or establish, maintain, operate, extend and enlarge public utilities including water and sewerage systems within or without the limits of the county, city or town. Sets up powers and duties of the county, city and town as to sewage disposal systems and approval of such, and water supply systems and their approval by counties.

NAME:

Outdoor Recreation Act - Section 10-21-4 to 10-21-12

DESCRIPTION:

An Act to create the Commission of Outdoor Recreation which is to acquire property for the maintenance, improvement, protection and conservation of outdoor areas suitable for the development of a system of outdoor recreational facilities and to transfer such property to other State agencies, to act either independently or jointly with other agencies to carry out the Commission's powers and duties.

NAME:

Virginia Uniform Statewide Building Code

DESCRIPTION:

This statewide building code, published by the State Board of Housing, applies to all buildings and structures and their appurtenant constructions, including municipal, county, state and private buildings except where such buildings are otherwise specifically provided for by statute. The Code regulations control all matters concerning the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures and their service equipment, and supercedes all local building codes.

NAME:

Virginia Environmental Quality Act - Sections 10-177 to 10-186

DESCRIPTION:

To establish the policy of the Commonwealth to promote the wise use of its air, water, land and other natural resources in order to improve the quality of the

environment. The Act provides for cooperation with other agencies to achieve this end, and creates the Council on the Environment to implement such policy.

NAME:

Environmental Impact Reports of State Agencies - Section 10-17-107 to 10-17-112

DESCRIPTION:

Requires all agencies of the Commonwealth to submit a report to the Commissioner of Conservation, Development and Natural Resources on each major State facility which they propose to construct, to include environmental impact, measures proposed to reduce this impact and alternatives to the construction. The Commissioner must then make a report to the Governor on such projects, and construction can begin only after approval from the Governor.

TABLE II

Federal Legislation Relating to Virginia's Water Resources

NAME:

Creation of Environmental Protection Agency December, 1970

DESCRIPTION:

Reorganization Plan No. 3 of 1970 provides for consolidation of pollution control and abatement activities which previously were assigned to several departments and agencies. Water Quality research and development program embodies: research on the effects of water quality on water uses, research on the processes which influence the fate of water pollutants, the development of improved sampling and analytical methods of measuring water quality and effluents and the development of improved technology for preventing water pollution. Water quality efforts are directed toward assisting states in carrying out water quality improvement programs by providing financial and technical support.

NAME:

Federal Water Pollution Control Act Amendments of 1972 - (Public Law 92-500)

DESCRIPTION:

Provides for the restoration and maintenance of the nation's waters by the establishment of guidelines for Federal, State and local agencies to follow, in cooperation with each other.

Requires each state to establish a continuing planning process for guiding the development of a water quality management plan, consistent with the Act and subject to the approval of the Administrator. The Administrator is authorized to conduct in the Environmental Protection Agency and to make grants to any State, municipality or intermunicipal or interstate agency for the purpose of assisting in the development of any project that will (1) demonstrate an improved method of preventing the discharge of pollutants from sewers or (2) demonstrate

advanced waste treatment and water purification methods or improved methods of joint treatment systems for municipal and industrial wastes.

Each state is responsible for submitting yearly a report including: (1) A description of the water quality of the navigable waters; (2) an analysis of the extent to which the elimination of the discharge of pollutants provides for the protection and propagation of a balanced population of shellfish, fish and wildlife and allows recreational activities in and on the water; (3) an estimate of the environmental impact, economic and social costs necessary to achieve the objectives of the Act; economic and social benefits and date of achievements; and (4) a description of the nature and extent of nonpoint sources of pollutants and recommendations as to programs for control of such.

NAME:

Soil Conservation Act - February 29, 1936 and Domestic Allotment (Public Law 461)

DESCRIPTION:

Established the Soil Conservation Service which assists conservation districts, communities, watershed groups, federal and state agencies and other cooperators with erosion control and water management problems. The purpose is to conserve soil and water resources, improve agriculture and reduce damage caused by floods and sedimentation.

NAME:

National Environmental Policy Act of 1969 (Public Law 91-190)

DESCRIPTION:

To establish a national policy for the environment and promote efforts to prevent or eliminate damage to the ecological systems and natural resources of the Nation; and to establish a Council on Environmental Quality in an effort to meet these ends. This Act requires environmental impact review of most federally funded projects. All studies are coordinated with other Federal, State and local agencies.

NAME:

Environmental Quality Improvement Act of 1970 (Public Law 91-224)

DESCRIPTION:

To assure the Federal agencies conducting or supporting public works activities which affect the environment will implement the policies established under existing law, and to authorize an office of Environmental Quality to provide for the Council on Environmental Quality established by Public Law 91-190.

NAME:

Water Resources Research Act 1964 (Public Law 88-379)

DESCRIPTION:

Provides for federal state cooperative water resources

research and training programs to meet the needs of the states in dealing with complex water problems.

NAME:

Water Resources Planning Act 1965 (Public Law 89-80)

DESCRIPTION:

Established that it is the policy of the Congress to encourage the conservation, development and utilization of water and related land resources of the U.S. on a comprehensive and coordinated basis by the Federal government, states, localities and private enterprise with the cooperation of all affected Federal, State and local agencies. Establishes the Water Resources Council; authorizes establishment of River Basin commissions and authorizes financial assistance to states for planning by means of matching grants.

NAME:

Watershed Protection and other Flood Prevention Act (Public Law 566)

DESCRIPTION:

Provides for cooperation with federal, state and local agencies in making investigations and surveys of the watersheds of rivers and other waterways as a basis for the development of coordinated programs. Plans from the basis for installing works of improvement for floodwater retardation, erosion control and reduction of sedimentation in the watersheds of rivers and streams.

NAME:

The Flood Control Acts: River & Harbor Act 1966 (Public Law 89-789); 1968 Amendments (Public Law 90-361); 1970 Amendments (Public Law 91-611)

DESCRIPTION:

As amended, provides for installation of mainstream works of improvement for (1) the control of floods; for which the Department of the Army is responsible and (2) watershed improvement measures to prevent floods, reduce flood water, sedimentation, and erosion damages; and further the conservation, development, utilization and disposal of water. Includes preparation of detailed subwatershed work plans in collaboration with other agencies.

NAME:

Fish and Wildlife Secretary Coordination Act (Public Law 85-624)

DESCRIPTION:

This act provides for the Interior to assist Federal, State, public and private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife; in the control of losses from disease, in minimizing damages from over abundant species; and in providing public shooting and fishing areas. The act provides that wildlife conservation will be coordinated with other water resource development programs.

Final Regulations

NAME:

Federal Power Act - Title 16 Chapter 12 Federal Regulation and Development of Power Subchapter 1 - Regulations of the Development of Water Power and Resources

DESCRIPTION:

Section 792 of this Chapter creates the Federal Power Commission, and 797 provides the general powers thereof: investigations and data, cooperation with Executive Departments, publication of information, issuance of licenses for construction of dams; conduits; reservoirs. Other sections deal with projects affecting navigable waters (804); regulation by State or Commission as to service, rates, charges, etc. (812); power to enter into interstate commerce (813); and provision that State laws and water rights will be unaffected (821).

NAME:

Agricultural Credit Title 7 Agriculture, Chapter 50

DESCRIPTION:

Section 1924 of this Chapter deals with Soil and Water Conservation Loans: loans can be extended to any farm owner/tenant without regard to provisions/restrictions of Section 1922, for purposes only of land and water development, use and conservation.

Section 1926 water facilities loans to associations; prohibition against curtailment of services provides for the development of water and waste disposal facilities.

NAME:

Coastguard Regulation on Oil Spills - Code of Federal Regulations, Title 33, of Chapter 1, Subchapter 0

DESCRIPTION:

This provision requires that anyone with knowledge of a spill should immediately notify proper agency of U.S., if discharge; various regulations dealing with oil transfers, vessel design and operations, etc. also included.

NAME:

Rural Development Act of 1972 P.L. 92-410, Title II - Amendments to the Watershed Protection and Flood Prevention Act, As Amended

DESCRIPTION:

Provides for certain agencies to enter into agreements with land owners, individually or collectively, based on conservation plans of such landowners which are developed in cooperation with and approved by the soil and water conservation district in which the land is located; providing for changes in cropping systems and land use for the installation of soil and water conservation practices and measures needed to conserve and develop the soil, water, woodland, wildlife and recreation resources within this land included in plans for works of improvement.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9 1 of the Code of Virginia)

DEPARTMENT OF CORRECTIONS

Title of Regulation: VR 230-30-001. Minimum Standards for Jails and Lockups.

Governor's Comment:

No objection to the proposed regulations as presented. I would, however, ask that the Board and Department of Corrections carefully monitor implementation of the new standards and work closely with the Compensation Board to assess the manpower needs, if any, resulting from their implementation.

/s/ Gerald L. Baliles
April 10, 1987

DEPARTMENT OF EDUCATION

Title of Regulation: VR 270-01-0011. Vocational Education Regulations.

Governor's Comment:

No objection to the proposed regulation as presented; I commend the Board on achieving a significant reduction in the regulatory and paperwork burdens imposed by state regulation in this area. I would, however, ask the Board to monitor carefully the impact of possible reductions in federal funding in this area.

/s/ Gerald L. Baliles
April 10, 1987

CRIMINAL JUSTICE SERVICES BOARD

Title of Regulation: VR 240-01-11. Rules Relating to Compulsory Minimum Training Standards for Noncustodial Employees of the Department of Corrections.

Governor's Comment:

No objection to proposed regulation as presented.

/s/ Gerald L. Baliles
April 10, 1987

Title of Regulation: VR 240-01-4. Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers/Courthouse and Courtroom Security Officers/Deputy Sheriffs Designated to Serve Process.

Governor's Comment:

No objection to proposed regulation as presented.

/s/ Gerald L. Baliles
April 10, 1987

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: VR 615-01-17. Deprivation Requirement in the Aid to Dependent Children (ADC) Program.

Office of the Governor

April 22, 1987

Mr. William L. Lukhard
Commissioner
Department of Social Services
8007 Discovery Drive
Richmond, Virginia 23229-8699

Dear Mr. Lukhard:

I have reviewed the regulations for Deprivation Requirement in the Aid to Dependent Children (ADC) Program (VR 615-01-17) under the procedures of Executive Order Number Five (86)

Although the proposed regulations would simplify application of the eligibility standards for determining when a child is deprived, implementation of these proposals would also require substantial increases in benefits payments for the additional cases that would be eligible under the new standards. This additional expenditure was unanticipated in the development of the current budget. Because of the significant fiscal impact of these proposals and the other competing demands on the Department's limited resources, I cannot recommend approval of these regulations at this time. I would suggest, however, that the Department may wish to consider alternative means of clarifying the existing standards to promote uniformity of application throughout the Commonwealth.

/s/ Gerald L. Baliles

Title of Regulation: VR 615-01-18. Aid to Dependent Children (ADC) and General Relief (GR) Programs.

Governor

Office of the Governor

April 8, 1987

Mr. William L. Lukhard
Commissioner
Department of Social Services
8007 Discovery Drive
Richmond, Virginia 23229-8699

Dear Mr. Lukhard:

I have reviewed the regulations for Entitlement Date in the Aid to Dependent Children (ADC) and General Relief (GR) Programs (VR 615-01-18) under the procedures of Executive Order Number Five (86).

The proposed regulations clearly reflect the Board's intent to avoid penalizing an applicant for benefits when processing of the application is delayed for reasons beyond the applicant's control. Despite the merits of this proposal, the Department of Planning and Budget has pointed out that the Department of Social Services' current budget is insufficient to cover the substantial increase in benefits payments which would result from implementation of the new regulations. The Board proposes to fund the costs of the General Relief regulations by reallocating existing resources; however, this approach would penalize all benefits recipients by reducing the amount of their benefits. In my estimation, this solution would not serve the best interests of those who are in need of these services.

I commend the Board on its attempts to develop an equitable approach to the process of eligibility determination; however, in light of the absence of financial resources, I cannot approve promulgation of these regulations at this time.

/s/ Gerald L. Baliles

DEPARTMENT OF TAXATION

Title of Regulation: **VR 630-10-112. Welfare Assistance Redeemable in Goods (Retail Sales and Use Tax).**

Governor's Comment:

No objection to the proposed regulation as presented.

/s/ Gerald L. Baliles
April 8, 1987

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Agriculture and Consumer Services intends to promulgate regulations entitled: **Rules and Regulations for the Enforcement of the Phosphate Cleaning Agents Law**. The purpose of the proposed regulation is to establish exceptions for cleaning agents containing phosphorus that the act creates a significant hardship on the user or where the act may be unreasonable because of the lack of an adequate substitute cleaning agent.

STATEMENT

Senate Joint Resolution 54 adopted by the 1984 General Assembly session requested, in part, certain Virginia agencies to study the cost and benefit of a phosphate detergent ban in Virginia. A task force was formed, conducted a series of meetings and studied numerous nationwide studies and reports on the subject produced by the private sector, government agencies and universities. The task force submitted its report to the Governor and the General Assembly in November, 1985. (See Senate Document #9-1985). The task force concluded "...that a phosphorus detergent ban should reduce the phosphorus levels in wastewater by 20 to 30%."

The 1987 General Assembly passed Senate Bill 248 and companion House Bill 1038. The bills were signed into law by Governor Gerald L. Baliles and have an effective date of January 1, 1988. The bills establish a zero percent phosphorus by weight expressed as elemental phosphorus except for an amount not exceeding 0.5% that is incidental to manufacturing, for cleaning agents which include laundry detergents, dishwashing compound, household cleaner, metal cleaner, industrial cleans, phosphate compound or other substance that is intended to be used for cleaning purposes. The bills provide for detergents used in dishwashing machines, whether commercial or household to contain not more than 8.7% phosphorus and authority for the board to exclude others if they meet the criteria as described below. The bills also provide for exclusion of a cleaning agent that is:

1. Used in dairy production, beverage, or food processing equipment;

2. A product used as an industrial sanitizer, brightener, acid cleaner or metal conditioner, including phosphoric acid products or trisodium phosphate;

3. Used in hospitals, veterinary hospitals or clinics, or health care facilities or in agricultural or dairy production or in the manufacture of health care supplies;

4. Used in commercial laundry that provides laundry services for a hospital, health care facility or veterinary hospital;

5. Used by industry for metal cleaning or conditioning;

6. Manufactured, stored, or distributed for use or sale outside of the Commonwealth;

7. Used in any laboratory, including a biological laboratory, research facility, chemical laboratory, and engineering laboratory;

8. Used for cleaning hard surfaces, including household cleansers for windows, sinks, counters, ovens, tubs, or other food preparation surfaces and plumbing fixtures;

9. Used as a water softening chemical, antiscaling chemical, or corrosion inhibitor intended for use in closed systems, such as boilers, air conditioners, cooling towers, or hot water heating systems.

Section 62.1-193.3 of the Code of Virginia charges the Board of Agriculture and Consumer Services to adopt rules and regulations to administer and enforce the provisions of the Act, and under § 62.1-193.2 to adopt regulations to provide for substances exceeding the zero phosphorus limitation, not to exceed 8.7% phosphorus by weight, based on a finding that compliance with the Chapter would:

a. Create a significant hardship on the user; or

b. Be unreasonable because of the lack of an adequate substitute cleaning agent.

The board is seeking to identify those users who can document that the Act creates a significant hardship on them or may be unreasonable because of the lack of an adequate substitute cleaning agent.

The board will study the responses and the law to determine if a need exists to promulgate rules and

General Notices/Errata

regulations to provide for further exemptions or for the administration and enforcement of the Act.

Statutory Authority: §§ 62.1-193.2 and 62.1-193.3 of the Code of Virginia.

Written comments may be submitted until July 10, 1987, to Raymond D. Vaughan, Secretary, Board of Agriculture and Consumer Services, P.O. Box 1163, 1100 Bank Street, Richmond, Virginia 23209.

Contact: C. Kermit Spruill, Director, Division of Dairy and Food, P.O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-8899

STATE AIR POLLUTION CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.**

The purpose of the intended amendments is to change the agency's regulations to provide the latest edition of referenced technical and scientific documents and to incorporate newly promulgated federal New Source Performance Standards (NSPS) and National Emission and Standards for Hazardous Air Pollutants (NESHAPS).

Statutory Authority: § 10-17.18(b) of the Code of Virginia.

Written comments may be submitted to Director of Program Development, State Air Pollution Control Board, P.O. Box 10089, Richmond, Virginia 23240

Contact: Nancy S. Saylor, Division of Program Development, State Air Pollution Control Board, P.O. Box 10089, Richmond, Va. 23240, telephone (804) 786-1249

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Alcoholic Beverage Control Board intends to consider promulgating, amending or repealing regulations pursuant to § 5.1 of the Public Participation Guidelines. The board intends to solicit petitions from any group or individual concerning the adoption, amendment or repeal of its regulations. The purpose is to receive information from industry, the general public and licensees of the board concerning adopting, amending or repealing the board's regulations.

Statutory Authority: §§ 4-11, 4-69, 4-69.2, 4-72.1, 4-98.14, 4-103 and 9-6.14:1 et seq., of the Code of Virginia.

Written comments may be submitted until April 30, 1987.

Other pertinent information: A public meeting will be held on June 25, 1987, at 10 a.m. in the 1st Floor Hearing Room, 2901 Hermitage Road, Richmond, Virginia, to receive comments from the public (see notice attached).

Contact: Robert N. Swinson, Acting Secretary to the Board, P.O. Box 27491, Richmond, Va. 23261, telephone (804) 257-0617

DEPARTMENT OF COMMERCE (BOARD OF)

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: **State Board of Examiners for Nursing Home Administrators.** The board intends to consider proposals to revise regulations with special consideration applied to (i) implementation of a requirement for continuing education and (ii) establishment of a fee for approval of preceptors.

Statutory Authority: § 54-1.28 of the Code of Virginia.

Written comments may be submitted until May 1, 1987.

Contact: Gerald W. Morgan, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8508 (toll-free 1-800-552-3016)

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **1984 Editions of the Uniform Statewide Building Code, Volumes I and II; Public Building Safety Regulations; Industrialized Building and Mobile Home Safety Regulations; LP Gas Regulations; and the Tradesmen Certification Standards.** The purpose of these amendments is to provide safety standards for the construction and maintenance of buildings and structures; provide safety standards for the handling and storage of LP Gas; and to provide standards for the certification of building related tradesmen.

Statutory Authority: Article 1 (§ 36.97 et seq.) of Chapter 6

of Title 36 of the Code of Virginia.

Written comments may be submitted until April 30, 1987.

Contact: Jack A. Proctor, CPCA Deputy Director, DBRS, Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219, telephone (804) 786-4751

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider promulgating regulations entitled: **(1) The Virginia Amusement Device Regulations and (2) The Virginia Statewide Fire Prevention Code.** The purpose of the proposed regulations is to (i) provide safety standards for the construction, maintenance, operation and inspection of amusement devices and to provide standards for the certification of amusement device inspectors; and (ii) provide safety standards to safeguard life and property from the hazards of fire or explosion.

Statutory Authority: (1) § 36-98.3 and (2) § 27-97 of the Code of Virginia.

Written comments may be submitted until April 30, 1987.

Contact: Jack A. Proctor, CPCA Deputy Director, DBRS, Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219, telephone (804) 786-4751

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider promulgating regulations entitled: **Virginia Private Activity Bond Regulations.** The purpose of the proposed regulations is to (i) provide an application procedure for individual projects to request an allocation of private activity bond authority; (ii) describe the policies and procedures of the Commonwealth for providing allocations of private activity bond authority to projects throughout each calendar year; and (iii) specify the reporting requirements for projects that utilize an allocation of bond authority.

Statutory Authority: §§ 15.1-1399.15 and 15.1-1399.16 of the Code of Virginia.

Written comments may be submitted until May 11, 1987.

Contact: Paul J. Grasewicz, Associate Director, Office of Policy Analysis, Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219, telephone (804) 786-7893

DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Rehabilitative Services intends to consider promulgating regulations entitled: **Provision of Independent Living Rehabilitation Services.** The purpose of the proposed regulations is to establish policies, procedures and requirements governing the provision of services to disabled persons.

Statutory Authority: § 51.01-5(7) of the Code of Virginia.

Written comments may be submitted until June 1, 1987, to David R. Ziskind, Deputy Commissioner, Department of Rehabilitative Services, P.O. Box 11045, Richmond, Virginia 23230.

Contact: James L. Hunter, Board Administrator, Department of Rehabilitative Services, P.O. Box 11045, Richmond, Va. 23230, telephone (804) 257-6446

COMMONWEALTH TRANSPORTATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commonwealth Transportation Board intends to consider amending three separate sets of regulations now in use into a single regulation entitled: **Hazardous Materials Transportation Regulations at Tunnel, Ferry and Bridge Facilities Throughout the Commonwealth of Virginia.** The purpose of the proposed amendments is to provide new rules and regulations including operating requirements for the transportation of hazardous materials through tunnels, on bridges and on ferries in form and content consistent with the Commonwealth's regulations and in conformance with the federal Department of Transportation regulations, as identified in the Code of Federal Regulations (Title 49).

Statutory Authority: §§ 33.1-12 and 33.1-13 of the Code of Virginia.

Written comments may be submitted until July 13, 1987.

Contact: John I. Butner, Engineering Programs Supervisor, Department of Transportation, Traffic Engineering Division, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2878

General Notices/Errata

GENERAL NOTICES

DEPARTMENT FOR THE AGING

General Notice to the Public

Notice of Intent to Apply for Federal Funds

The Virginia Department for the Aging hereby gives notice of its intent to apply for federal funds for aging services under Title III of the Older Americans Act (as amended), Title V of the Older Americans Act (as amended) and the Job Training Partnership Act. The application for funding will be filed on August 15, 1987, and will include intrastate funding formulas for the distribution of Title III funds, Title V funds, and Job Training Partnership Act funds to local area agencies on aging.

Written comments on this application will be received until 5 p.m., Friday, June 19, 1987. Copies of the proposed application will be available to the public after April 17, 1987. Written comments and requests for copies of the proposed application should be sent to:

Mr. Robert Knox, Director
Division of Program Management
Virginia Department for the Aging
101 North 14th Street, 18th Floor
Richmond, Virginia 23219-2797
telephone (804) 225-2801

Public hearings to receive comments on the proposed application will also be held on the following dates:

June 8, 1987

Wytheville Community College
Wytheville, Virginia

June 9, 1987

Germanna Community College
Locust Grove, Virginia

June 10, 1987

Richard Bland Community College
Petersburg, Virginia

Public hearings are open to all interested individuals and will begin at 10 a.m. and conclude no later than 1 p.m.

DEPARTMENT OF HEALTH

Notice to the Public

Notice is hereby given that the 1986 State Medical Facilities Plan is available for distribution. Prepared under the auspices of the Virginia Statewide Health Coordinating Council, the Plan consists of two parts: Part I contains statistical summaries of inventories and projected needs for services and facilities; Part II describes the official methodologies for projecting need. Requests for the document should be accompanied by a check in the amount of \$10 per copy payable to the Virginia Department of Health, and should be directed to the Division of Health Planning, Virginia Department of Health, 1010 Madison Building, 109 Governor Street, Richmond, Virginia 23219.

DEPARTMENT OF SOCIAL SERVICES

Notice to the Public

The Division of Licensing Program withdraws the intent published in the December 22, 1986 Virginia Register to amend regulations entitled: **VR 615-50-3. Minimum Standards for Licensed Child Care Centers.** The purpose of the regulation was to identify standards applicable to centers providing child care on an occasional basis only.

DEPARTMENT OF WASTE MANAGEMENT

Notice to the Public

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia (Administrative Process Act) that the Virginia Waste Management Board intends to amend the regulations entitled: **Regulations Governing the Transportation of Hazardous Materials.**

The proposed Amendment 6 to these regulations includes changes to the U.S. Department of Transportation (DOT) regulations on hazardous materials transportation and motor carrier safety. These new provisions enacted by the U.S. Department of Transportation during 1985-86, require that changes be made to the existing state regulations. These proposed changes maintain consistency with the federal regulations.

On May 28, 1987 at 10 a.m. an open meeting will be held at the James Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia. The location is accessible to the handicapped. The purpose of the open meeting is to explain this proposed draft of Amendment 6 to the regulated community, the public, and any interested

persons, prior to a final draft for comment at the public hearing to be scheduled for later in 1987.

STATEMENT

Amendment 6 to the Regulations Governing the Transportation of Hazardous Materials

Basis and authority: Section 10-305 (Chapter 24, Title 10) of the Code of Virginia directs the Virginia Waste Management Board to promulgate rules and regulations concerning the transportation of hazardous materials in the Commonwealth, but shall be no more restrictive than applicable federal laws and regulations. Changes in the federal regulations promulgated in 1985-86 necessitate an amendment which keeps the Virginia Regulations Governing the Transportation of Hazardous Materials consistent with these federal regulations.

Purpose: The Virginia Waste Management Board and the executive director of the Virginia Department of Waste Management promulgate these amended regulations in order to ensure that hazardous materials transported within the Commonwealth are loaded, packed, identified, marked, and placarded in order to protect public health and safety and the environment.

Summary and analysis: Amendment 6 proposes to incorporate, by reference, changes that were made by the U.S. Department of Transportation to Title 49 Code of Federal Regulations, §§ 171-179 and 390-397 from January 1, 1985, to December 31, 1986. Changes in the U.S. Department of Transportation regulations include: (i) changes made to reflect new requirements regarding the international transportation of hazardous materials, (ii) reclassification of some explosive materials to reduce risks associated with the transportation of these materials, (iii) improvements in all requirements relating to certain poisonous liquids which pose a potential inhalation risk if there is a release, (iv) improvements in the placarding and shipping paper requirements relating to empty tank cars, (v) incorporate into the hazardous materials tables the CERCLA hazardous substances which require notification if a discharge occurs, (vi) conversion of individual exemptions to make new packagings and shipping alternatives available to the entire regulated community, (vii) extensions provided for certain exemptions and regulatory deadlines, and (viii) corrections, editorial changes, and other minor reversions.

Impact: These requirements have already been through the federal rulemaking process and are in force in the interstate, and some intrastate, transport of hazardous materials. Therefore, these proposed changes in the initial draft of the amendment are not expected to have a significant impact on the regulated community.

Written comments on proposed Amendment 6 can be submitted until 5 p.m., May 28, 1987, to William F. Gilley, Director, Division of Regulation, Virginia Department of

Waste Management, James Monroe Building, 11th Floor, 101 North 14th Street, Richmond, Virginia 23219.

Contact: Cheryl Cashman, Information Officer, Virginia Department of Waste Management, James Monroe Bldg., 11th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2667

NOTICES 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, Deputy 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

ERRATA

STATEWIDE HEALTH COORDINATING COUNCIL

Title of Regulation: VR 360-01-05. Standards for Evaluating Certificate of Public Need Application to Establish or Expand Extracorporeal Shock Wave Lithotripsy Services.

Issue: VA.R 3:12, pp. 1123-1123, March 16, 1987

Corrections to the proposed regulation are as follows:

Page 1123, Column 2, §§ 2.2.1 and 2.2.2 add the word "and" after the semicolon at the end of each section.

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
- Ⓜ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

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.

VIRGINIA CODE COMMISSION

EXECUTIVE

VIRGINIA AGRICULTURAL COUNCIL

May 11, 1987 - 9 a.m. – Open Meeting
Holiday Inn-Airport, 5203 Williamsburg Road, Sandston, Virginia

A meeting called by the chairman to (i) review progress reports on approved funded research projects; (ii) hear any new project proposals which are properly supported by the Board of Directors of a commodity group; and (iii) any other business that may come before the members of the council.

Contact: Henry H. Budd, Assistant Secretary, Department of Agriculture and Consumer Services, Washington Bldg., Room 203, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2373

BOARD OF AGRICULTURE AND CONSUMER SERVICES

May 19, 1987 - 1 p.m. – Open Meeting
May 20, 1987 - 9 a.m. – Open Meeting
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia. Ⓜ

A regular meeting of the board.

Contact: Raymond D. Vaughan, Secretary, 1100 Bank St.,

Richmond, Va. 23219, telephone (804) 786-3501

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

September 28, 1987 - 2 p.m. – Public Hearing
Washington Building, Board Room, 2nd Floor, 1100 Bank Street, Richmond, Virginia. Ⓜ

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-02-15. Rules and Regulations for the Registration of Poultry Dealers.** The proposed regulations would require that poultry dealers doing business in Virginia keep records of their transactions as a means of tracing poultry disease to its source. They also would require that poultry dealers maintain a regimen of sanitation in their dealings.

Statutory Authority: §§ 3.1-726, 3.1-735 and 3.1-736 of the Code of Virginia.

Written comments may be submitted until June 30, 1987.

Contact: A. J. Roth, D.V.M., Chief, Bureau of Veterinary Services, Division of Animal Health, Virginia Department of Agriculture and Consumer Services, Suite 600, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483

September 28, 1987 - 3 p.m. – Public Hearing
Washington Building, Board Room, 2nd Floor, 1100 Bank Street, Richmond, Virginia. Ⓜ

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-02-12. Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals or Birds Into Virginia.** The proposed amendment to the above-referenced regulation would set health requirements for the admission of South American camelids of the genus lama into Virginia.

Statutory Authority: § 3.1-726 of the Code of Virginia.

Written comments may be submitted until June 29, 1987.

Contact: A. J. Roth, D.V.M., Chief, Bureau of Veterinary Services, Division of Animal Health, Virginia Department of Agriculture and Consumer Services, Suite 600, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

† **May 12, 1987 - 9:30 a.m.** - Open Meeting
2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports on activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, 2901 Hermitage Rd., Richmond, Va., telephone (804) 257-0617

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

May 29, 1987 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

The board will meet to (i) approve minutes of the March 13, 1987, meeting; (ii) review disciplinary cases; (iii) review correspondence; and (iv) conduct a regulatory review.

Virginia Board of Land Surveyors

May 28, 1987 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

The board will meet to (i) approve minutes of the February 20, 1987 meeting; (ii) consider the psychometrician study; (iii) discuss NCEE Part IV exam; (iv) discuss enforcement cases; and (v) review applications.

Contact: Joan L. White, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8555

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **May 15, 1987 - 10 a.m.** - Open Meeting
Fourth Street State Office Building, 205 North Fourth Street, Second Floor Conference Room, Richmond, Virginia. ☒

A meeting to (i) consider requests for interpretation of

the Virginia Uniform Statewide Building Code; (ii) consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code; and (iii) approve minutes of previous meeting.

Contact: Jack A. Proctor, 205 N. Fourth St., Richmond, Va., telephone (804) 786-4752

VIRGINIA CAVE BOARD

May 16, 1987 - 1 p.m. - Open Meeting
Longwood College, Board Room, 163 Ruffner Hall, Farmville, Virginia. ☒

A regular business session of 11-member board to consider problems relating to the conservation and preservation of caves. All board meetings are open to the interested public.

Contact: Evelyn Bradshaw, Chairman, 1732 Byron St., Alexandria, Va. 22303, telephone (703) 765-0069 or (202) 483-3721

GOVERNOR'S ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

† **June 5, 1987 - 10 a.m.** - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

Presentation of Certificate of Appreciation Awards and regularly scheduled meeting.

Contact: D. Ray Sirry, Division Director, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9308

STATE BOARD FOR COMMUNITY COLLEGES

May 20, 1987 - 3 p.m. - Open Meeting
Tidewater Community College, Portsmouth, Virginia

The regularly scheduled meeting of the State Board Committees (Audit, Facilities, Personnel, Curriculum and Program, Budget and Finance) will meet. (No agenda is available.)

May 21, 1987 - 9 a.m. - Open Meeting
Tidewater Community College, Portsmouth, Virginia

A general board meeting. No agenda is available.

Contact: Joy Graham, James Monroe Bldg., 15th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2126

Calendar of Events

BOARD OF COMMERCE

† **May 14, 1987 - 10 a.m.** – Open Meeting
Department of Commerce, Travelers Building, 5th Floor,
Conference Room, 3600 West Broad Street, Richmond,
Virginia. ☒

A subcommittee of the Board of Commerce will meet to discuss the study of the establishment of a Private Investigator's Board as requested by Senate Joint Resolution No. 144.

† **June 5, 1987 - 10 a.m.** – Public Hearing
General Assembly Building, House Room C, Capitol Square,
Richmond, Virginia. ☒

A public hearing on Senate Joint Resolution 144 (study of the establishment of a Private Investigator's Board). A subcommittee of the Board of Commerce will hear views on the study of the establishment of a Private Investigator's Board.

All interested parties or individuals are invited to attend and present testimony. Written comments may be submitted in addition to or in lieu of verbal testimony. Written comments must be received by 5 p.m., June 12, 1987.

Contact: Iva Frizzell, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8563 (toll-free number 1-800-552-3016)

* * * * *

† **June 10, 1987 - 9 a.m.** – Public Hearing
City Hall Building, Council Chambers, 10455 Armstrong Street, Fairfax, Virginia

The board will meet to conduct a public hearing concerning the Need for Certifying Interior Designers.

† **June 10, 1987 - 1:30 p.m.** – Public Hearing
City Hall Building, Council Chambers, 10455 Armstrong Street, Fairfax, Virginia

The board will meet to conduct a public hearing concerning the Desirability of Regulating Real Estate Appraisers.

† **June 11, 1987 - 9 a.m.** – Public Hearing
General Assembly Building, House Room C, Capitol Square,
Richmond, Virginia. ☒

The board will meet to conduct a public hearing concerning the Need for Certifying Interior Designers

† **June 11, 1987 - 1:30 p.m.** – Public Hearing
General Assembly Building, House Room C, Capitol Square,
Richmond, Virginia. ☒

The board will meet to conduct a public hearing

concerning the Desirability of Regulating Real Estate Appraisers.

† **June 22, 1987 - 9 a.m.** – Public Hearing
Hotel Roanoke, 19 North Jefferson Street, Roanoke,
Virginia. ☒

The board will meet to conduct a public hearing concerning the Need for Certifying Interior Designers.

† **June 22, 1987 - 1:30 p.m.** – Public Hearing
Hotel Roanoke, 19 North Jefferson Street, Roanoke,
Virginia. ☒

The board will meet to conduct a public hearing concerning the Desirability of Regulating Real Estate Appraisers.

† **June 29, 1987 - 9 a.m.** – Public Hearing
City Hall Building, Council Chambers, 810 Union Street,
Norfolk, Virginia

The board will meet to conduct a public hearing concerning the Need for Certifying Interior Designers.

† **June 29, 1987 - 1:30 p.m.** – Public Hearing
City Hall Building, Council Chambers, 810 Union Street,
Norfolk, Virginia

The board will meet to conduct a public hearing concerning the Desirability of Regulating Real Estate Appraisers.

Contact: Sylvia W. Bryant, Hearings Coordinator,
Department of Commerce, 3600 W. Broad St., Richmond,
Va. 23230, telephone (804) 257-8524

BOARD OF CONSERVATION AND HISTORIC RESOURCES

† **May 21, 1987 - 10 a.m.** – Open Meeting
Roslyn Conference Center, 8727 River Road, Richmond,
Virginia

A general meeting.

Contact: Bonnie S. Greenwood, Department of Conservation and Historic Resources, 1100 Washington Bldg., Capitol Square, Richmond, Va. 23219, telephone (804) 786-2121

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Upper James River Advisory Board

† **June 2, 1987 - 11:30 a.m.** – Open Meeting

Sunny Brook Inn, Hollins, Virginia

A quarterly business meeting of the Upper James River Advisory Board to discuss matters pertaining to that section of the Scenic River.

Contact: Richard G. Gibbons, Division of Parks and Recreation, 1201 Washington Bldg., Richmond, Va. 23219, telephone (804) 786-4132

Virginia Soil and Water Conservation Board

May 21, 1987 - 9 a.m. - Open Meeting
203 Governor Street, Suite 206, Richmond, Virginia

A regular bimonthly business meeting.

Contact: Donald L. Wells, 203 Governor St., Suite 206, Richmond, Va. 23219, telephone (804) 786-2064

STATE BOARD OF CORRECTIONS

May 13, 1987 - 10 a.m. - Open Meeting
June 17, 1987 - 10 a.m. - Open Meeting
Department of Corrections, 4615 West Broad Street, Richmond, Virginia. ☐

A regular monthly meeting to consider such matters as may be presented.

Contact: Vivian Toler, Secretary to the Board, 4615 W. Broad St., P.O. Box 26963, Richmond, Va. 23261, telephone (804) 257-6274

VIRGINIA BOARD OF COSMETOLOGY

† **May 18, 1987 - 9 a.m. - Open Meeting**
Department of Commerce, Travelers Building, 5th Floor, Conference Room, 3600 West Broad Street, Richmond, Virginia. ☐

A meeting to (i) review applications; (ii) review investigative reports of complaints and determine disposition; and (iii) address correspondence pertinent to the operation of the board.

Contact: Evelyn B. Brown, Assistant Director, Virginia Board of Cosmetology, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8509

CRIMINAL JUSTICE SERVICES BOARD

Committee on Criminal Justice Information Systems

June 17, 1987 - 10 a.m. - Open Meeting
Ninth Street Office Building, 9th and Grace Streets, Governor's Cabinet Conference Room, 6th Floor, Richmond, Virginia. ☐

A meeting to discuss projects and business of the committee.

Contact: Dr. Jay W. Malcan, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

STATE BOARD OF EDUCATION

June 11, 1987 - 7 p.m. - Public Hearing
Hermitage High School, 8301 Hungary Spring Road, Richmond, Virginia

June 11, 1987 - 7 p.m. - Public Hearing
Lake Taylor High School, 1384 Kempsville Road, Norfolk, Virginia

June 11, 1987 - 7 p.m. - Public Hearing
George Wythe High School, 1500 West Pine Street, Richmond, Virginia

June 11, 1987 - 7 p.m. - Public Hearing
Warrenton Junior High School, 244 Waterloo Street, Warrenton, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to adopt regulations entitled: **VR 270-01-0012. Standards for Accrediting Schools in Virginia.** These regulations cover the accreditation of elementary and secondary education programs in Virginia.

Statutory Authority: § 22.1-16 of the Code of Virginia.

Written comments may be submitted until June 11, 1987.

Contact: Dr. Robert B. Jewell, Associate Director, Department of Education, Accreditation Service, P.O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2105

STATE BOARD OF ELECTIONS

May 20, 1987 - 10 a.m. - Open Meeting
Ninth Street Office Building, Room 101, 9th and Grace Streets, Richmond, Virginia. ☐

A meeting to review (i) agency budget and (ii) voting equipment submissions for approval.

June 23, 1987 - 10 a.m. - Open Meeting
Ninth Street Office Building, Room 101, 9th and Grace

Calendar of Events

Streets, Richmond, Virginia. ☒

Canvass June 9, 1987, Primary Election and hear oral presentations from voting machine vendors.

Contact: M. Debra Mitterer, Ninth Street Office Bldg., Room 101, Richmond, Va. 23219, telephone (804) 786-6551

FAMILY AND CHILDREN'S TRUST FUND

Board of Trustees

† **May 18, 1987 - 10 a.m.** – Open Meeting
City Hall, Basement Conference Room, Charlottesville, Virginia

A meeting to conduct general board business.

Contact: Peggy Friedenber, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23288, telephone (804) 281-9217

BOARD OF FORESTRY

June 24, 1987 - 10 a.m. – Open Meeting
National Resources Building, Alderman and McCormick Roads, Charlottesville, Virginia

A regular meeting of the board to conduct general business.

Contact: Harold L. Olinger, Department of Forestry, P. O. Box 3758, Charlottesville, Va. 22903, telephone (804) 977-6555

DEPARTMENT OF FORESTRY

July 1, 1987 - 10 a.m. – Public Hearing
Department of Forestry, 2229 East Nine Mile Road, Sandston Office, Sandston, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Forestry intends to adopt regulations entitled: **Public Participation Guidelines**. Guidelines to be followed by the Department of Forestry to obtain public participation in development of regulations.

Statutory Authority: § 10-31.2 of the Code of Virginia.

Written comments may be submitted until June 30, 1987.

Contact: Harold L. Olinger, Chief, Administration, Department of Forestry, Box 3758, Charlottesville, Va.

22903, telephone (804) 977-6555

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

May 11, 1987 - 10 a.m. – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room i, Richmond, Virginia. ☒

A general board meeting and disciplinary matters.

May 12, 1987 - 9 a.m. – Open Meeting
May 13, 1987 - 9 a.m. – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The Virginia Board of Funeral Directors and Embalmers will meet to administer examinations and have a general board meeting.

These examinations and board meeting may be moved to the Embassy Suites Hotel, Commerce Center, 2925 Emerywood Parkway, Richmond, Virginia.

Please contact the Virginia Board of Funeral Directors and Embalmers board office prior to this meeting for further information concerning the meeting place.

Contact: Mark L. Forberg, Executive Secretary, Virginia Board of Funeral Directors and Embalmers, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9907

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

June 5, 1987 - 10 a.m. – Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Main Conference Room, Richmond, Virginia. ☒

The board will advise the Director of the Department of General Services and the Governor on architecture of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

Contact: M. Stanley Krause, AIA, AICP, Rancord, Wildman & Krause, Architects & City Planning Consultants, P. O. Box 1817, Newport News, Va. 23601, telephone (804) 867-8030

State Insurance Advisory Board

June 12, 1987 - 9:30 a.m. – Open Meeting
Department of General Services, Ninth Street Office

Building, Room 209, Conference Room of the Director, Richmond, Virginia. ☐

A quarterly meeting of the State Insurance Advisory Board.

Contact: Charles F. Scott, Department of General Services, Division of Risk Management, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-5968

GEORGE MASON UNIVERSITY

Board of Visitors

May 11, 1987 - 7 p.m. - Open Meeting
George Mason University, Student Union II, Rivanna Lane, Fairfax, Virginia. ☐

An informational meeting of the GMU Board of Visitors to hear Secretary of Education, Donald J. Finley, speak about preparation for the 1988 biennial budget.

The Faculty and Academic Standards Committee will meet following the presentation. An agenda will be available four days prior to the board meeting for those individuals or organizations who request it.

May 12, 1987 - 2:30 p.m. - Open Meeting
George Mason University, Student Union II, Rivanna Lane, Fairfax, Virginia. ☐

A regularly scheduled meeting of the GMU Board of Visitors to (i) review recommendations of faculty appointments, (ii) receive reports of the standing committees, and (iii) act on those recommendations presented by the administrators of George Mason University.

Standing Committees - Finance and Resource Development, EEO and Affirmative Action, Land Use and Physical Facilities, and Student Affairs, will meet prior to the board meeting beginning at 9 a.m. on May 12.

An agenda will be available four days prior to the board meeting for those individuals or organizations who request it.

Contact: Ann Wingblade, Office of the President, George Mason University, 4400 University Dr., Fairfax, Va. 22030, telephone (703) 323-2041

DEPARTMENT OF HEALTH

June 4, 1987 - 9 a.m. - Open Meeting

Ramada Inn, Duffield, Virginia. ☐

The State Board of Health will have a working session from 9 a.m. to noon. The regular business meeting of the board will begin at 1 p.m. The agenda will be available two weeks in advance of the meeting.

Contact: Sally Camp, James Madison Bldg., Room 400, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-3561

STATEWIDE HEALTH COORDINATING COUNCIL

May 15, 1987 - 1 p.m. - Public Hearing
James Madison Building, Main Floor, Conference Room, 109 Governor Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Statewide Health Coordinating Council intends to amend regulations entitled: **VR 360-01-05. Virginia State Health Plan 1980-94.** These regulations are standards for evaluating certificate of public applications to establish or expand extracorporeal shock wave lithotripsy services.

Statutory Authority: § 32.1-120 of the Code of Virginia.

Written comments may be submitted until May 15, 1987.

Contact: John P. English, Health Planning Consultant, 1010 Madison Bldg., 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4891

* * * * *

† **May 20, 1987 - 9 a.m. - Open Meeting**
Sheraton Airport Inn, 2727 Ferndale Drive, N.W., Roanoke, Virginia. ☐

A regular business meeting to conduct regular business of the council.

Contact: Raymond O. Perry, M.P.H., Department of Health, Room 1010, 109 Governor Street, Richmond, Va. 23219, telephone (804) 786-6970

DEPARTMENT OF HEALTH REGULATORY BOARDS

† **May 21, 1987 - 9 a.m. - Open Meeting**
1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to (i) conduct general board business; (ii) respond to board correspondence, and (iii) sign licensee wall certificates.

Contact: Phyllis Henderson, 1601 Rolling Hills Dr.,

Calendar of Events

Richmond, Va. 23229-5005, telephone (804) 662-9913

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

May 27, 1987 - 9:30 a.m. - Open Meeting
Johnston-Willis Hospital, 1401 Johnston-Willis Road,
Richmond, Virginia. ☒

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

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† May 18, 1987 - 10 a.m. - Open Meeting
205 North Fourth Street, Second Floor Conference Room,
Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to consider proposed challenges to the recommendations of the BOCA Code Change Committee on the proposed 1987 BOCA Code changes.

Contact: Jack A. Proctor, CPCA, Deputy Director, Building Regulatory Services, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† May 19, 1987 - 10 a.m. - Open Meeting
13 South 13th Street, Richmond, Virginia. ☒

A regular monthly meeting of the Board of Commissioners 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 programs; (iii) review the authority's operations for the prior month; and (iv) 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 office of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, 13 South 13th St., Richmond, Va. 23219, telephone (804) 782-1986

VIRGINIA STATE LIBRARY BOARD

† June 23, 1987 - 11 a.m. - Open Meeting
Virginia State Library, Supreme Courtroom, 3rd Floor, 11th Street and Capitol Square, Richmond, Virginia. ☒

A regular meeting to discuss administrative matters.

Automated Systems and Networking Committee

† June 23, 1987 - 9:30 a.m. - Open Meeting
Virginia State Library, Conference Room B, 3rd Floor, 11th Street and Capitol Square, Richmond, Virginia. ☒

A meeting to discuss automated systems and networking committee matters.

Mrs. Jean K. Reynolds, Virginia State Library, 11th Street and Capitol Square, Richmond, Va. 23219, telephone (804) 786-2332

COMMISSION ON LOCAL GOVERNMENT

May 27, 1987 - 10 a.m. - Open Meeting
Ninth Street Office Building, Room 901, Richmond, Virginia. ☒

A regular meeting to consider such matters as may be presented.

Contact: Barbara W. Bingham, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219 (804) 786-6508

LONG-TERM CARE COUNCIL

† June 11, 1987 - 9:30 a.m. - Open Meeting
Ninth Street Office Building, 6th Floor, Cabinet Conference Room, Richmond, Virginia. ☒

A meeting to discuss issues relating to the development and coordination of long-term care services in Virginia.

Local Long-Term Care Coordinating Committees

May 12, 1987 - 9:30 a.m. - Open Meeting
Ramada Inn, 7104 Studley Road, Manassas, Virginia. ☒

May 13, 1987 - 9:30 a.m. - Open Meeting
Sheraton Inn (Coliseum), 1215 West Mercury Boulevard, Hampton, Virginia. ☒

May 14, 1987 - 9:30 a.m. - Open Meeting
Holiday Inn (Crossroads), 2000 Staples Mill Road, Richmond, Virginia. ☒

May 15, 1987 - 9:30 a.m. – Open Meeting
Western State Hospital, Staunton, Virginia. ☐

May 21, 1987 - 9:30 a.m. – Open Meeting
The Hardware Company Restaurant, Abingdon, Virginia. ☐

Mutual discussion and information-sharing concerning the activities and concerns of both the council and local coordinating committees.

Contact: Catherine P. Saunders, Virginia Department for the Aging, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2912

BOARD OF MEDICAL ASSISTANCE SERVICES

† **June 9, 1987 - 10 a.m. – Open Meeting**
Department of Medical Assistance Services, Suite 1300, 600 East Broad Street, Richmond, Virginia. ☐

A meeting to discuss (i) State Plan amendments mandated by COBRA; a) Medicaid eligibility and service coverage for certain aliens covered under the amnesty provisions of the Immigration Reform and Control Act of 1986; b) Medicaid eligibility for employed disabled individuals as provided under the Employment Opportunities for Disabled Americans Act; c) Medicaid eligibility for a protected group of SSI disabled children who lost SSI eligibility due to an increase in Title II disability benefits. The following is mandated by state legislation: (a) burial trust, (b) board authority, (c) return on equity capital; (ii) proposed legislation; and (iii) other business pertinent to the board.

Contact: Jacqueline M. Fritz, Department of Medical Assistance Services, 600 E. Broad St., Richmond, Va. 23219, telephone (804) 786-7933

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† **May 11, 1987 - June 9, 1987 – Public Comment Period**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-03-2.6152. Definition of Home Ownership or Contiguous Property.** These regulations set limits on the amount of property contiguous to the homesite which can be considered for Medicaid eligibility.

STATEMENT

Basis and authority: Section 32.1-325 (A) of the Code of Virginia gives the State Board of Medical Assistance Services the authority to prepare and amend the State

Plan for Medical Assistance subject to the approval of the Governor. The Code at § 9-6.14:4.1(C)(5) gives the Governor the authority to approve this agency's emergency adoption of regulations. The Governor approved the adoption of this emergency regulation on April 10, 1987. Filing this emergency regulation with the Health Care Financing Administration protects the department's federal financial participation while the Administrative Process Act requirements are complied with.

Purpose: The purpose of these proposed regulations is to initiate public comment on the regulations needed by the Department of Medical Assistance Services to implement Senate Bill 372. This bill was signed by the Governor and amended in the 1987 General Assembly veto session on April 8, 1987, to become effective immediately.

Summary and analysis: Senate Bill 372 revised in part, the criteria for determining eligibility for Medicaid applicants by redefining the home and contiguous property for ADC-eligible applicants to include the house and lot of principal residence and all contiguous property regardless of value. For all other applicants, a home is defined as the house and lot of principal residence and all contiguous property not exceeding \$5,000 in value. The Senate bill also provided for those cases in which the \$5,000 contiguous property requirement is more restrictive than that in effect on January 1, 1972, by permitting the homesite exemption in such cases to include the house, lot and contiguous property essential to operation of the home regardless of value.

Impact: The Department of Medical Assistance Services estimates a negligible fiscal impact with the implementation of these regulations.

Forms: No new forms will be required to implement this regulation as it will merely be incorporated into the current ongoing eligibility determination process.

Evaluation: The Departments of Medical Assistance Services (DMAS) and Social Services (DSS) regularly monitor the ongoing eligibility process. The Department of Health and Human Services (DHHS) draws quarterly quality control samples to assure the correct application of the Commonwealth's eligibility policies. If incorrect applications are found, the DMAS and DSS jointly develop corrective action plans. The Commonwealth's error rate consistently falls below the ceiling set by DHHS.

Recommendation: The department recommends the approval of these proposed regulations to proceed to public comment. The board acting under the authority granted by § 32.1-325 of the Code of Virginia is requested to approve these proposed regulations for public comment.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until June 9, 1987, 5 p.m., to Ann E. Cook.

Calendar of Events

Other pertinent information: A copy of the regulation is available from Victoria Simmons, Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia 23219.

Contact: Ann E. Cook, Division of Medical Social Services, Department of Medical Assistance Services, Suite 1300, 600 E. Broad St., Richmond, Va. 23219, telephone (804) 225-4218

COMMISSION ON MEDICAL CARE FACILITIES

May 11, 1987 - 10 a.m. – Open Meeting
June 8, 1987 - 10 a.m. – Open Meeting
July 13, 1987 - 10 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ☐

By Executive Order 31 (86) Governor Baliles created an advisory commission with two responsibilities: (i) to examine the effectiveness of the Certificate of Public Need program in controlling medical care costs while making good quality, accessible health care available to all Virginians; and (ii) if this examination demonstrates that the Commonwealth's existing health planning process no longer effectively meets these objectives, the commission shall assess alternatives and recommend revisions to the existing Certificate of Public Need process.

Contact: E. George Stone, State Health Department, James Madison Bldg., 109 Governor St., Room 1010, Richmond, Va. 23219, telephone (804) 786-6970

GOVERNOR'S ADVISORY BOARD ON MEDICARE AND MEDICAID

† **June 2, 1987 - 2 p.m. – Open Meeting**
Marriott Hotel, 600 East Broad Street, Richmond, Virginia. ☐

A meeting to discuss (i) proposed legislation; (ii) ventilator dependent children; (iii) subcommittee reports; and (iv) other business pertinent to the board.

Contact: Jacqueline M. Fritz, Department of Medical Assistance Services, Suite 1300, 600 E. Broad St., Richmond, Va. 23219, telephone (804) 786-7933

VIRGINIA STATE BOARD OF MEDICINE

Ad Hoc Committee

† **May 15, 1987 - 9 a.m. – Open Meeting**
Department of Health Regulatory Boards, Surry Building, 1601 Rolling Hills Drive, Second Floor, Board Room 1, Richmond, Virginia. ☐

The committee will meet to develop policy relative to the use of information from insurance carriers on settlements of malpractice claims.

† **May 15, 1987 - 1 p.m. – Open Meeting**
Department of Health Regulatory Boards, Surry Building, 1601 Rolling Hills Drive, Second Floor, Board Room 1, Richmond, Virginia. ☐

The committee will meet to study the issue of debridement by physical therapists.

† **May 21, 1987 - 1:30 p.m. – Open Meeting**
Department of Health Regulatory Boards, Surry Building, 1601 Rolling Hills Drive, Second Floor, Board Room 2, Richmond, Virginia. ☐

The committee will meet to develop an interpretation of the definition of the Scope of Chiropractic with more specific parameters.

Credentials Committee

† **May 29, 1987 - 8:30 a.m. – Open Meeting**
† **May 30, 1987 - 8:30 a.m. – Open Meeting**
Department of Health Regulatory Boards, Surry Building, 1601 Rolling Hills Drive, 2nd Floor, Richmond, Virginia. ☐

A meeting to conduct general business, interview, and review medical credentials of applicants applying for licensure in Virginia in open and executive session and to discuss any other items which may come before this Committee.

Executive Committee

† **June 5, 1987 - 10 a.m. – Open Meeting**
Hyatt Richmond Hotel, 6624 West Broad Street, Richmond, Virginia. ☐

A meeting to (i) review cases previously acted on by the executive director; (ii) review reports and recommendations of the Ad Hoc Committee appointed to study the issue of debridement by physical therapists; (iii) develop an interpretation of the definition of the Scope of Chiropractic with more specific parameters; and (iv) develop policy relative to the use of information from insurance carriers on settlements of malpractice claims and any other business which may come before the committee.

Informal Conference Committee

† May 29, 1987 - 10 a.m. - Open Meeting
Ramada Inn, Interstate 95 and Route 3, Fredericksburg,
Virginia. ☐

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 (A) (6) of the Code of Virginia, executive and closed meetings.

Legislative Committee

† June 10, 1987 - 10 a.m. - Open Meeting
Holiday Inn Club Fanny's, 6531 West Broad Street,
Richmond Room, Richmond, Virginia. ☐

The Legislative Committee will meet to consider (i) amendments to the Code of Virginia regarding chiropractic assistants; (ii) § 54-317 (12) of the Code of Virginia as it relates to physicians dispensing; (iii) regulations governing the practice of physical therapy and physical therapy assistants, and (iv) any other items which may come before the committee.

Advisory Committee on Physician Assistants

† May 22, 1987 - 10:30 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling
Hills Drive, Surry Building, Second Floor, Board Room 1,
Richmond, Virginia. ☐

A meeting to consider (i) the development of regulations concerning the utilization of physician assistants in hospitals as surgical assistants, (ii) the scope of practice for podiatry assistants, and (iii) any other items which may come before the committee.

Podiatry Examination Committee

† June 26, 1987 - 9 a.m. - Open Meeting
Springfield Hilton, 6550 Loisdale Road, Springfield,
Virginia. ☐

The committee will meet to review and evaluate the examination questions for the board's June podiatry examination to develop cut scores for that exam.

Respiratory Therapy Committee

† May 12, 1987 - 10:30 a.m. - Open Meeting
Department of Health Regulatory Boards, Surry Building,
1601 Rolling Hills Drive, Second Floor, Board Room 3,
Richmond, Virginia. ☐

The Advisory Board on Respiratory Therapy and the Ad Hoc Committee will meet to study the feasibility of mandatory certification for respiratory therapist and discuss any other items which may come before the committee.

Contact: Eugenia K. Dorson, Board Administrator, Surry Bldg., 2nd Floor, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9925

STATE MENTAL HEALTH AND MENTAL RETARDATION BOARD

† May 27, 1987 - 10 a.m. - Open Meeting
Alleghany-Highlands Community Services Board, Covington,
Virginia. ☐

A regular monthly meeting. The agenda will be published on May 19, 1987 and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, State MH/MR Board Secretary, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

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† July 21, 1987 - 10 a.m. - Public Hearing
James Monroe Building, Conference Room E, 101 North
14th Street, Richmond, Virginia. ☐

† July 28, 1987 - 10 a.m. - Public Hearing
Roanoke City Hall, Municipal Building, Room 450, 215
Church Avenue, S.W., Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to repeal existing regulations and adopt new regulations entitled: **VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.** The proposed regulations will establish the minimum requirements for the licensure of outpatient facilities.

STATEMENT

Subject: Public comment and public hearings on the above referenced regulations.

Substance: Under the current definitions in the Code of Virginia, the Department of Mental Health and Mental Retardation is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons. These regulations articulate the minimum requirements for licensure of outpatient facilities providing care or treatment to these groups. These are new regulations that will partially replace the current Rules and Regulations

Calendar of Events

for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities and will be subject to licensure for the first time outpatient facilities serving mentally ill or emotionally disturbed persons.

Outpatient facilities generally are public or private entities that provide a variety of treatment interventions which individually are less than three consecutive hours duration for mentally ill, mentally retarded or substance abusing persons in a nonresidential setting. Outpatient facilities usually provide these interventions through a multidisciplinary staff that is employed by the outpatient facility. In contrast, similar interventions provided by individual practitioners of the same healing art or of the same behavioral science profession, or provided by 'private practice' organizations organized under pertinent provisions of the Code of Virginia by groups of practitioners of the same healing art or of the same behavioral science profession, are not subject to licensure by the Department of Mental Health and Mental Retardation and are, therefore, excluded from the term 'outpatient facility'. For further clarification see the definitions of 'outpatient facility' and 'professional service' in § 1.1 of the regulations.

Issues: The regulations are comprised of the following issues which have impact on outpatient facilities subject to licensure: (i) organization and administration, (ii) personnel, (iii) physical environment, (iv) programs and services, (v) disaster or emergency plans, and (vi) special requirements for outpatient methadone treatment facilities.

Basis: Chapter 1 (§ 37.1-10, Subsection 6) and Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

Purpose: To establish the minimum requirements for outpatient facilities in the areas of organization and administration, personnel, physical environment, programs and services, disaster or emergency plans, and special requirements for outpatient methadone treatment facilities, in order to protect the health and safety of mentally ill, mentally retarded and substance abusing clients in outpatient facilities and to assure that they receive services that are appropriate to meet their identified needs.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

* * * * *

† July 21, 1987 - 10 a.m. - Public Hearing
James Monroe Building, Conference Room E, 101 North
14th Street, Richmond, Virginia. ☐

† July 28, 1987 - 10 a.m. - Open Meeting

Roanoke City Hall, Municipal Building, Room 450, 215
Church Avenue, S.W., Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health and Mental Retardation intends to repeal existing regulations and adopt new regulations entitled: **VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.** The proposed regulations will establish the minimum requirements for the licensure of residential facilities.

STATEMENT

Subject: Public comment and public hearing on the above referenced regulations.

Substance: Under the current definitions in the Code of Virginia, the Department of Mental Health and Mental Retardation is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons. These regulations articulate the minimum requirements for licensure of residential facilities providing care or treatment to these groups. These are new regulations that will replace the current Rules and Regulations for the Licensure of Group Homes and Halfway Houses and the current Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

Issues: The regulations are comprised of the following issues which have impact on residential facilities subject to licensure: (i) Organization and administration, (ii) personnel, (iii) residential environment, (iv) programs and services, (v) disaster, or emergency plans, and (vi) special requirements for residential methadone treatment facilities.

Basis: Chapter 1 (§ 37.1-10, subsection 6) and Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

Purpose: To establish the minimum requirements for residential facilities in the areas of organization and administration, personnel, residential environment, programs and services, disaster or emergency plans, and special requirements for residential methadone treatment facilities, in order to protect the health and safety of mentally ill, mentally retarded and substance abusing clients in residential facilities and to assure that they receive services that are appropriate to meet their identified needs.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Written comments may be submitted until July 31, 1987.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION; UNIVERSITY OF VIRGINIA INSTITUTE OF LAW, PSYCHIATRY AND PUBLIC POLICY

Division of Continuing Education and Office of Continuing Medical Education

May 28, 1987 - Open Meeting
May 29, 1987 - Open Meeting
Conference Center, Colonial Williamsburg Lodge, Williamsburg, Virginia. ☐

Tenth Annual Symposium on Mental Health and the Law, entitled: "Professional Liability in the Mental Health, Mental Retardation and Substance Abuse Professions."

An annual symposium addressing issues related to mental health and the law. Ten hours in Category 1 CME, 1 CEU and 10 CLE credits applied for.

Contact: Lynn Daldone, Administrator, Institute of Law, Psychiatry and Public Policy, Blue Ridge Hospital, Box 100, Charlottesville, Va. 22901, telephone (804) 924-5435

GOVERNOR'S MIGRANT AND SEASONAL FARMWORKERS BOARD

May 13, 1987 - 9:30 a.m. - Open Meeting
Eastern Shore Community College, Melfa, Virginia. ☐

A regularly scheduled bimonthly meeting.

Contact: Marilyn Mandel, Planning Director, Department of Labor and Industry, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-2385

STATE MILK COMMISSION

† May 20, 1987 - 10 a.m. - Open Meeting
Ninth Street Office Building, Room 1015, Ninth and Grace Streets, Richmond, Virginia. ☐

A routine monthly meeting.

Contact: C. H. Coleman, Administrator, Ninth Street Office Bldg., Room 1015, Ninth and Grace Sts., Richmond, Va. 23219, telephone (804) 786-2013

VIRGINIA MUSEUM OF FINE ARTS

Accessions Committee of the Board of Trustees

† May 13, 1987 - 2 p.m. - Open Meeting
Virginia Museum Auditorium, Boulevard and Grove Avenue, Richmond, Virginia. ☐

A meeting to consider art objects offered for gift and purchase.

Contact: Emily C. Robertson, Secretary of the Museum, Boulevard and Grove Ave., Richmond, Va. 23221, telephone (804) 257-0553

NORFOLK STATE UNIVERSITY

Board of Visitors

May 16, 1987 - 10 a.m. - Open Meeting
Harrison B. Wilson Administration Building, Board Room, Norfolk State University, Norfolk, Virginia

The purpose of the meeting is to discuss various issues pertaining to the university. The agenda should be available at least five working days prior to the meeting.

Contact: Gerald D. Tyler, Norfolk State University, Wilson Hall-S340, 2401 Corprew Ave., Norfolk, Va. 23504, telephone (804) 623-8373

VIRGINIA STATE BOARD OF NURSING

† May 18, 1987 - 9 a.m. - Open Meeting
† May 19, 1987 - 9 a.m. - Open Meeting
† May 20, 1987 - 9 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☐ (Interpreter for deaf provided if requested) ☐

A regular meeting of the Virginia State Board of Nursing to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement and other matters under jurisdiction of the board. During the meeting, the board will consider the comments on proposed regulations presented in writing and at a public hearing on March 23, 1987 as summarized by the hearing officer, and will take action on the regulations.

† June 25, 1987 - 8:30 a.m. - Open Meeting
Department of Health Regulatory Boards, Koger Center, Surry Building, Conference Room 2, Richmond, Virginia. ☐

A meeting to inquire into allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

Calendar of Events

Informal Conference Committee

† **June 9, 1987 - 9 a.m.** – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested) ☐

The committee will inquire into allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909

VIRGINIA BOARD OF OPTOMETRY

May 13, 1987 - 1 p.m. – Open Meeting
National Conference Center, 50 Kingsmill Road, Williamsburg, Virginia. ☒

A formal hearing regarding John H. Kauffman, III, O.D.

May 14, 1987 - 9 a.m. – Open Meeting
National Conference Center, 50 Kingsmill Road, Williamsburg, Virginia. ☒

A meeting to (i) discuss implementation of new regulations; (ii) review disciplinary matters; and (iii) discuss general board business.

Contact: Moria C. Lux, Executive Director, Virginia Board of Optometry, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9910

OLD DOMINION UNIVERSITY

Board of Visitors

June 18, 1987 - Time to be announced – Open Meeting
Old Dominion University, Webb University Center, Norfolk, Virginia. ☒

The annual meeting of the Board of Visitors to handle affairs of the university. (Specific times included in agenda distributed two weeks prior to meeting.)

Contact: Gordon A. McDougall, Office of the Board of Visitors, Old Dominion University, Norfolk, Va. 23508, telephone (804) 440-3072

VIRGINIA OUTDOORS FOUNDATION

† **May 20, 1987 - 10:30 a.m.** – Open Meeting
Farmer's Delight, Middleburg, Virginia. ☒

A general business meeting.

Contact: Tyson B. Van Auken, 221 Governor St., Richmond, Va. 23219, telephone (804) 786-5539

STATE BOARD OF PHARMACY

† **June 23, 1987 - 7:45 a.m.** – Open Meeting
† **June 24, 1987 - 7:45 a.m.** – Open Meeting
NOTE CHANGE OF MEETING PLACE
George Washington Inn, 500 Merrimac Trail, Williamsburg, Virginia. ☒

A regular board meeting and board examinations on both days.

Contact: J. B. Carson, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9921

BOARD OF COMMISSIONERS TO EXAMINE PILOTS

† **July 16, 1987 - 10 a.m.** – Open Meeting
Hasler and Company, 212 Tazewell Street, Norfolk, Virginia

The board will meet to conduct routine business at its regular quarterly meeting.

Contact: David E. Dick 3600 W. Broad St., Richmond, Va. 23220, telephone (804) 257-8515 or William L. Taylor, 3327 Shore Dr., Virginia Beach, Va. 23451, telephone (804) 496-0995

VIRGINIA BOARD OF PROFESSIONAL COUNSELORS

May 18, 1987 - 10 a.m. – Public Hearing
State Capitol, House Room 4, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Professional Counselors intends to repeal existing regulations entitled: **The Virginia Board of Professional Counselors Regulations** and adopt new regulations entitled: **VR 560-01-02. Regulations Governing the Practice of Professional Counseling.**

Statutory Authority: § 54-929 (a) of the Code of Virginia.

Written comments may be submitted until June 29, 1987.

Other pertinent information: The proposed regulations were

developed as part of the comprehensive review of regulations initiated by Governor Charles S. Robb.

#BbContact: Stephanie A. Sivert, Executive Director, Board of Professional Counselors, 1061 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912

BOARD OF REHABILITATIVE SERVICES

† May 22, 1987 - 9:30 a.m. - Open Meeting
Holiday Inn Crossroads, Staples Mill Road and Broad Street, Chesapeake and Norfolk Rooms, Richmond, Virginia. ☒

A regularly scheduled meeting to (i) review recommended fiscal policies, (ii) consider other recommended policies, priorities and initiatives, and (iii) conduct the business of the board.

Evaluation and Analysis Committee

† May 21, 1987 - 1 p.m. - Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested) ☞

A meeting to (i) review and evaluate proposed policies and procedures and (ii) develop recommendations for presentation to the Board of Rehabilitative Services.

Finance Committee

† May 21, 1987 - 3 p.m. - Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested) ☞

A meeting to (i) review financial reports, (ii) develop fiscal policies for recommendation to the Board of Rehabilitative Services, and (iii) discuss other budgetary matters.

Program Committee

† May 21, 1987 - 9 a.m. - Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested) ☞

A meeting to (i) review, discuss and consider information and recommendations on proposed Independent Living Regulations, (ii) consider comments received from the April 22, 1987 public hearing, and (iii) review other information toward development of Independent Living Regulations for

recommendation to the Board of Rehabilitative Services after the close of the public comment period June 1, 1987.

Contact: James L. Hunter, Department of Rehabilitative Services, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 257-6446 (toll-free number 1-800-552-5019)

VIRGINIA RESOURCES AUTHORITY

† May 12, 1987 - 9 a.m. - Open Meeting
Mutual Building, 909 East Main Street, Authority Board Room, Suite 305, Richmond, Virginia

The board will meet to (i) approve minutes of the April 14, 1987 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., P. O. Box 1300, Richmond, Va. 23210, telephone (804) 644-3100

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† May 19, 1987 - 10 a.m. - Public Hearing
State Capitol, House Room 2, Richmond, Virginia. ☒

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. Following the public hearing, the authority will conduct its regular business meeting.

Contact: Rose Heilman, Virginia Small Business Financing Authority, Washington Bldg., Room 1000, Richmond, Va. 23219, telephone (804) 786-3791

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

† May 26, 1987 - 9 a.m. - Public Hearing
Richmond Regional Office, Wythe Building, 1604 Santa Rosa Road, Conference Rooms A and B, Richmond, Virginia

† June 1, 1987 - 1 p.m. - Public Hearing
Northern Virginia Regional Office, 11166 Main Street, 2nd Floor Training Room, Fairfax, Virginia

† June 4, 1987 - 10 a.m. - Public Hearing
Roanoke Regional Office, Commonwealth Building, 210 Church Avenue, S.W., Suite 100, Roanoke, Virginia

Calendar of Events

† July 10, 1987 - 2 p.m. - Public Hearing
Blair Building, 8007 Discovery Drive, Conference Room A,
Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14.7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: **VR 615-08-1. Virginia Fuel Assistance Program.**

Substance: The amendments to the program are as follows:

In the Energy Crisis Assistance Program (ECAP) Component

1. Increase the maximum amount for major repairs and replacements to \$500.
2. Pay a portion of the electric bill unless income is very low.
3. Change the security deposit payment to a one-time-only payment per fuel type.
4. Change cooling assistance from an optional type of assistance under ECAP to a separate component.

Issues: The issues that relate to each amendment are as follows:

1. Increasing the maximum for major repairs and replacements will mean eligible clients will be able to have major repairs done on their heating systems or purchase high quality durable heating equipment.
2. Paying only a portion of the electric bill will mean most eligible clients will be responsible for paying that portion that is not paid through ECAP.
3. Changing the payment of a security deposit to a one-time-only payment per fuel type will mean clients will not receive ECAP deposits year after year unless their fuel type changes.
4. Making cooling assistance a separate component will mean that assistance received under ECAP will have no effect on the receipt of cooling assistance. It also means local agencies will be able to receive a separate allocation for cooling assistance.

Basis: Section 63.1-25 of the Code of Virginia provides the statutory basis for the promulgation and regulations relative to the Fuel Assistance Program.

Purpose: The purpose of each amendment is as follows:

1. Increasing the maximum for major repairs and replacements will provide more assistance to eligible clients to repair their heating systems and purchase high quality heating equipment.
2. Requiring clients to pay part of their electric bill

will encourage them to be more responsible and self-sufficient and less dependent on the program.

3. Paying a security deposit one-time-only will eliminate the problem of some clients taking advantage of the present policy and receiving deposit money through ECAP year after year.

4. Changing cooling assistance to a separate program component rather than a part of ECAP will enable eligible clients to receive cooling assistance regardless of their receipt of ECAP and will provide localities a separate allocation if they opt to operate a cooling program.

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

Written comments may be submitted until July 9, 1987.

Contact: Charlene Chapman, Supervisor, Energy and Emergency Assistance, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Va. 23229-8699, telephone (804) 281-9050 (toll-free number 1-800-552-7091)

VIRGINIA BOARD OF SOCIAL WORK

May 15, 1987 - 9:30 a.m. - Open Meeting
Department of Health Regulatory Boards, Koger Center,
Surry Building, 1601 Rolling Hills Drive, Richmond,
Virginia. ☒

A meeting to conduct (i) general board business; (ii) review applications; (iii) respond to correspondence; and (iv) discuss regulations.

Contact: Stephanie A. Sivert, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9914

COMMONWEALTH TRANSPORTATION BOARD

May 21, 1987 - 10 a.m. - Open Meeting

NOTE CHANGE OF LOCATION:
Loudoun County Administration Building, 18 North King Street, Leesburg, Virginia. ☒

A monthly meeting 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., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-9950

VIRGINIA BOARD OF VETERINARY MEDICINE

May 12, 1987 - 8 a.m. - Open Meeting
May 13, 1987 - 8 a.m. - Open Meeting
Medical College of Virginia, 410 North 12th Street, A. G. Smith Building, Room 103, Richmond, Virginia

May 12 - A meeting to administer the national board examination to veterinarian applicants.

May 13 - A meeting to administer the clinical competency test to veterinarian applicants.

June 9, 1987 - 8 a.m. - Open Meeting
Medical College of Virginia, 1101 East Marshall Street, Sanger Hall, Room 1-044, Richmond, Virginia

A meeting to administer the national board and state board examinations to animal technician applicants.

June 17, 1987 - 8:30 a.m. - Open Meeting
State Capitol, House Room 2, Richmond, Virginia. ☐

A meeting to (i) review disciplinary cases, (ii) discuss implementation of regulations; (iii) prepare state licensing examinations; and (iv) conduct general board business.

June 18, 1987 - 8 a.m. - Open Meeting
Medical College of Virginia, 1101 East Marshall Street, Sanger Hall, Room 2-020, Richmond, Virginia. ☐

A meeting to administer the state licensing examinations to veterinarian applicants.

Contact: Moira C. Lux, Executive Director, Virginia Board of Veterinary Medicine, 1601 Rolling Hills Drive, Richmond, Va. 23229, telephone (804) 662-9915

BOARD FOR THE VISUALLY HANDICAPPED

May 20, 1987 - 11 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia ☐ (Interpreter for deaf provided if requested) ☐

A quarterly meeting to review policy and procedures. The board reviews and approves the department's budget, executive agreement and operating plan.

Contact: Diane E. Allen, Executive Secretary Senior, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 264-3145 (TTD number (804) 264-3140)

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

July 18, 1987 - 10:30 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☐ (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: Diane E. Allen, Executive Secretary Senior, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 264-3145 (TTD number 264-3140)

VIRGINIA WASTE MANAGEMENT BOARD

May 28, 1987 - 10 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ☐

An informational meeting will be held for Amendment 6 to the Virginia Hazardous Waste Regulations Governing the Transportation of Hazardous Materials. The proposed amendment will incorporate, by reference, changes made from January 1, 1985 - December 31, 1986 to the U. S. Department of Transportation Hazardous Materials Regulations.

Contact: Cheryl Cashman, Information Officer, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, Va. 23219, telephone (804) 225-2667

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† June 15, 1987 - 10 a.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room D, Richmond, Virginia. FT3001 5

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **Hazardous Waste Management Regulations: Amendment 8.**

The proposed Amendment 8 to these regulations includes changes to the U. S. Environmental Protection Agency's regulations on solid and hazardous waste management. These new provisions enacted by U. S. EPA during 1985-86, require that changes be made to existing, April 1, 1985, state regulations. These proposed changes maintain consistency with the federal program, as required. The amended regulations will be renumbered to VR 672-10-1.

The purpose of the public hearing is to obtain comments on the proposed draft of Amendment 8 from the regulated community, the public, and any

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interested persons.

STATEMENT

Basis and authority: Section 10-266.11 (Chapter 24, Title 10) of the Code of Virginia directs the Virginia Waste Management Board to promulgate such regulations as may be necessary. Extensive changes in the federal regulations promulgated in 1985-86 necessitates an amendment which keeps the Virginia Hazardous Waste Management program consistent with these federal requirements, thus preserving the final authorization granted to the Virginia program, and maintaining its independent authority to enforce the Resource Conservation and Recovery Act (RCRA) provisions here in the Commonwealth.

Purpose: The Virginia Waste Management Board and the Executive Director of the Virginia Department of Waste Management promulgate these amended regulations in order to effectively monitor the generation, transportation, treatment, storage and disposal of hazardous waste in the Commonwealth. By regulating these activities the Commonwealth protects public health, natural resources, and the environment.

Summary and analysis: Amendment 8 proposes to incorporate changes in the federal regulations promulgated up to October 1, 1986. Other minor revisions—such as editorial changes, additions of reference materials, or clarifying language—have been included for the convenience of the regulated community, and to maintain equivalence with the federal requirements for a hazardous waste management program.

The major changes in Amendment 8 are as follows:

1. Initial Hazardous and Solid Waste Amendment codification (FR 1978ff, 1/14/85); and HSWA codification rules (50 FR 28702ff, 7/15/85) for

- Delisting petitions
- Household waste exclusion
- Waste minimization requirement
- Prohibition of management in salt domes
- Prohibition of liquids in landfills
- Prohibition against use of hazardous waste as a dust suppressant
- Requirements for double liners
- Removal of exemptions for groundwater monitoring
- Corrective action requirements
- Changes to permitting requirements
- Requirements for transmittal of exposure information;

2. Listing of new wastes (50 FR 42936, 10/23/85; 50 FR 53315, 12/31/85; 51 FR 5330, 2/13/86; 51 FR 6541, 2/25/86);

3. Storage and treatment of hazardous waste in tank system (51 FR 25422, 7/14/86);

4. Burning of used oil (HSWA) (50 FR 49164ff, 11/29/85);

5. Small quantity generators of hazardous waste (HSWA) (51 FR 10174ff, 3/24/86);

6. Financial responsibility settlement (51 FR 16443ff, 5/2/86); and

7. A change to the wording of § 6.4.E. on Accumulation Time.

Among the various editorial changes and clarifying language proposed, will be changes reflecting the reorganization of the Division of Solid and Hazardous Waste Management of the Virginia Department of Health into the Virginia Department of Waste Management. Accordingly, "Board of Health," "Commissioner," and similar wording will be changed to read: Board of Waste Management, Executive Director, etc.

Impact: These proposed changes in the initial draft of the amendment are expected to impact upon certain segments of the regulated community of hazardous waste management facilities, notably the facilities which manage hazardous waste in tanks, and upon small businesses which must properly manage their hazardous wastes (e.g., vehicle maintenance, dry cleaners, small laboratories, etc.). Although these changes represent additional costs to these businesses, it should be remembered that these regulations are already enforced by the federal authorities, and there will be no additional costs if the Commonwealth assumes enforcement responsibility by promulgation of this proposed amendment.

Statutory Authority: § 10-266(11) of the Code of Virginia.

Written comments may be submitted until July 24, 1987, to Dr. Wladimir Gulevich, Director, Division of Technical Services, Virginia Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, Va. 23219.

Free copies of these final draft materials are available from the Information Officer.

Contact: Cheryl Cashman, Information Officer, Virginia Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, Va. 23219, telephone (804) 225-2667, or the Hazardous Waste Hotline 1-800-552-2075

STATE WATER CONTROL BOARD

May 19, 1987 - 7 p.m. — Public Hearing
Exmore-Willis Wharf Elementary School, Route 600,
Exmore, Virginia

A public hearing to receive comments on an

application to increase the amount of withdrawal presently in American Original's permit, to be used for industrial use at a claim processing plant in Willis Wharf.

June 11, 1987 - 9 a.m. - Open Meeting

June 12, 1987 - 9 a.m. - Open Meeting

General Assembly Building, Senate Room B, Capitol Square, Richmond, Virginia. ☐

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, 2111 N. Hamilton St., P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6829

COUNCIL ON THE STATUS OF WOMEN

May 12, 1987 - 9 a.m. - Open Meeting

Koger Executive Center, Koger Building, Conference Room 124, 8001 Franklin Farms Drive, Richmond, Virginia

At 9 a.m. a meeting of the standing committees of the council.

At 10 a.m. a regular meeting of the council to conduct general business and to receive reports from the council committees.

Contact: Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9200

LEGISLATIVE

VIRGINIA ALCOHOL SAFETY ACTION PROGRAM COMMISSION

Advisory Committee

May 19, 1987 - 10 a.m. - Open Meeting

General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. ☐

An organizational meeting for the advisory committee recently appointed to assist VASAP.

Contact: Oscar Brinson, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

HOUSE APPROPRIATIONS AND SENATE FINANCE

COMMITTEE JOINT MEETING

† **June 1, 1987 - 9:30 a.m. - Open Meeting**

George Mason University, 4400 University Drive, Fairfax, Virginia

A joint monthly meeting with agenda including education and transportation topics.

Contact: Donna C. Johnson, Appropriations Committee, General Assembly Bldg., 9th Floor, Capitol Square, Richmond, Va. 23219, telephone (804) 786-1837

VIRGINIA COAL AND ENERGY COMMISSION

Energy Preparedness Subcommittee

May 19, 1987 - 1:30 p.m. - Open Meeting

General Assembly Building, 4th Floor West Conference Room, Capitol Square, Richmond, Virginia. ☐

The agenda will include a status report by the administration on the use of oil overcharge funds and a briefing by the Department of General Services describing current efforts to reduce energy costs in state facilities.

Contact: Michael D. Ward, Staff Attorney or Martin G. Farber, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

VIRGINIA CODE COMMISSION

† **June 16, 1987 - 10 a.m. - Open Meeting**

† **June 17, 1987 - 9:30 a.m. - Open Meeting**

General Assembly Building, Speaker's Conference Room, 6th Floor, Richmond, Virginia. ☐

The Code Commission will continue with the revision of Title 54.

Contact: Joan W. Smith, Registrar of Regulations, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23219, telephone (804) 786-3591

SUBCOMMITTEE STUDYING VIRGINIA'S OUTDOOR RECREATION NEEDS

† **May 14, 1987 - 1 p.m. - Open Meeting**

Fairystone State Park, Route 2, Stuart, Virginia

The subcommittee will hold a meeting to be followed

Calendar of Events

at 7:30 p.m. by a public hearing to renew the role of federal, state and local governments in meeting Virginia's outdoor recreation needs. (HJR 204)

Those persons wishing to speak should contact: Barbara Hanback, House Clerk's Office, General Assembly Building, Capitol Square, Richmond, Virginia, telephone (804) 786-7681.

Contact: Martin Farber, Research Associate or Mike Ward, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23219, telephone (804) 786-3591

SUBCOMMITTEE STUDYING PROBLEMS OF TEEN PREGNANCY IN THE COMMONWEALTH

† **June 12, 1987 - 10 a.m.** - Open Meeting
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. ☐

A second meeting and work session of interim for continued joint legislative study. (HJR 280)

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, General Assembly Bldg., 2nd Floor, or P.O. Box 3-AG, Richmond, Virginia 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE COMMONWEALTH'S SUPPORT FOR TOURISM AND ECONOMIC DEVELOPMENT

May 12, 1987 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. ☐

First meeting of interim for two-year study committee. The subcommittee will receive testimony from agency personnel and hold a working session. (HJR 132)

Contact: Angela Bowser, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

COMMISSION ON VETERANS' AFFAIRS

June 6, 1987 - 10 a.m. - Public Hearing
Virginia Military Institute, Nickols Engineering Hall, Room 507, Lexington, Virginia. ☐

July 11, 1987 - 10 a.m. - Public Hearing
Clarke County Circuit Court, Main Court Room, Berryville, Virginia. ☐

† **August 8, 1987 - 10 a.m.** - Public Hearing

Rappahannock Community College (North Campus), Main Lecture Hall, Warsaw, Virginia. ☐

The commission will conduct a public hearing, taking testimony from individual veterans, representatives of veterans' organizations, and the general public on any matters concerning Virginia's veterans.

Contact: Alan Wambold, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

CHRONOLOGICAL LIST

OPEN MEETINGS

May 11

Agricultural Council, Virginia
Funeral Directors and Embalmers, Virginia Board of George Mason University
- Board of Visitors
Medical Care Facilities, Commission on

May 12

† Alcoholic Beverage Control Board, Virginia
Funeral Directors and Embalmers, Virginia Board of George Mason University
Board of Visitors
Long-Term Care Council
- Local Long-Term Care Coordinating Committees
† Medicine, Virginia State Board of
- Respiratory Therapy Committee
† Resources Authority, Virginia
Veterinary Medicine, Virginia Board of
Tourism and Economic Development, Joint Subcommittee Studying the Commonwealth's Support for
Women, Council on the Status of

May 13

Corrections, State Board of
Funeral Directors and Embalmers, Virginia Board of Long-Term Care Council
- Local Long-Term Care Coordinating Committees
Migrant and Seasonal Farmworkers Board, Governor's
† Museum of Fine Arts, Virginia
- Accessions Committee of the
Board of Trustees
Optometry, Virginia Board of
Veterinary Medicine, Virginia Board of

May 14

† Commerce, Board of
Long-Term Care Council
- Local Long-Term Care Coordinating Committees
Optometry, Virginia Board of

Calendar of Events

† Outdoors Recreation Needs, Subcommittee Studying Virginia's

May 15

† Building Code Technical Review Board, State Long-Term Care Council
- Local Long-Term Care Coordinating Committees
† Medicine, Virginia State Board of
- Ad Hoc Committee
Social Work, Virginia Board of

May 16

Cave Board, Virginia
Norfolk State University
- Board of Visitors

May 18

† Cosmetology, Virginia Board of
† Family and Children's Trust Funds
- Board of Trustees
† Housing and Community Development, Board of
† Nursing, Virginia State Board of

May 19

Agriculture and Consumer Services, Board of
Alcohol Safety Action Program Commission, Virginia
- Advisory Committee
Coal and Energy Commission, Virginia
- Energy Preparedness Subcommittee
† Housing Development Authority, Virginia
† Nursing, Virginia State Board of

May 20

Agriculture and Consumer Services, Board of
Community Colleges, State Board for
Elections, State Board of
† Health Coordinating Council, Virginia Statewide
† Milk Commission, State
† Nursing, Virginia State Board of
† Outdoors Foundation, Virginia
Visually Handicapped, Board for the

May 21

Community Colleges, State Board for
† Conservation and Historic Resources, Board of
Conservation and Historic Resources, Department of
- Virginia Soil and Water Conservation Board
† Health Regulatory Boards, Department of
Long-Term Care Council
- Local Long-Term Care Coordinating Committees
† Medicine, Virginia State Board of
- Ad Hoc Committee
† Rehabilitative Services, Board of
- Evaluation and Analysis Committee
- Finance Committee
- Program Committee
Transportation Board, Commonwealth

May 22

† Medicine, Virginia State Board of
- Advisory Committee on Physician Assistants

† Rehabilitative Services, Board of

May 27

Health Services Cost Review Council, Virginia
Local Government, Commission on
† Mental Health and Mental Retardation Board, State

May 28

Architects, Professional Engineers, Land Surveyors and
Certified Landscape Architects, State Board of
- Virginia Board of Land Surveyors
Mental Health and Mental Retardation, Department of;
University of Virginia Institute of Law, Psychiatry and
Public Policy
- Division of Continuing Education and Office of
Continuing Medical Education
Waste Management Board, Virginia

May 29

Architects, Professional Engineers, Land Surveyors and
Certified Landscape Architects, State Board of
† Medicine, Virginia State Board of
- Credentials Committee
- Informal Conference Committee
Mental Health and Mental Retardation, Department of;
University of Virginia Institute of Law, Psychiatry and
Public Policy
- Division of Continuing Education and Office of
Continuing Medical Education

May 30

† Medicine, Virginia State Board of
- Credentials Committee

June 1

† Appropriations and Senate Finance Committee,
House; Joint Meeting

June 2

† Conservation and Historic Resources, Department of
- Upper James River Advisory Board
† Medicare and Medicaid, Governor's Advisory Board
on

June 4

Health, Department of

June 5

† Child Abuse and Neglect, Governor's Advisory Board
on
General Services, Department of
- Art and Architectural Review Board
† Medicine, Virginia State Board of
- Executive Committee

June 8

Medical Care Facilities, Commission on

June 9

† Medicial Assistance Services, Board of
† Nursing, Virginia State Board of

Calendar of Events

- Informal Conference Committee
Veterinary Medicine, Virginia Board of

June 10
† Medicine, Virginia State Board of
- Legislative Committee

June 11
† Long Term Care Council
Water Control Board, State

June 12
General Services, Department of
- State Insurance Advisory Board
† Teen Pregnancy in the Commonwealth,
Subcommittee Studying Problems of
Water Control Board, State

June 16
† Code Commission, Virginia

June 17
† Code Commission, Virginia
Corrections, State Board of
Criminal Justice Services Board
- Committee on Criminal Justice Information Systems
Veterinary Medicine, Virginia Board of

June 18
Old Dominion University
- Board of Visitors
Veterinary Medicine, Virginia Board of

June 23
Elections, State Board of
† Library Board, Virginia State
† Library Board, Virginia State
- Automated Systems and Networking Committee
† Pharmacy, State Board of

June 24
Forestry, Board of
† Pharmacy, State Board of

June 25
† Nursing, Virginia State Board of

June 26
† Medicine, Virginia State Board of
- Podiatry Examination Committee

July 13
Medical Care Facilities, Commission on

July 16
† Pilots, Board of Commissioners to Examine

July 18
Visually Handicapped, Department for the
- Advisory Committee on Services

PUBLIC HEARINGS

May 15
Health Coordinating Council, Statewide

May 18
Professional Counselors, Virginia Board of

May 19
† Small Business Financing Authority, Virginia
Water Control Board, State

May 26
† Social Services, Department of

June 1
† Social Services, Department of

June 4
† Social Services, Department of

June 5
† Commerce, Board of

June 6
Veterans' Affairs, Commission on

June 10
† Commerce, Board of

June 11
† Commerce, Board of
Education, State Board of

June 15
† Waste Management Board, Virginia

June 22
† Commerce, Board of

June 29
† Commerce, Board of

July 1
Forestry, Department of

July 10
† Social Services, Department of

July 11
Veterans' Affairs, Commission on

July 21
† Mental Health and Mental Retardation Board, State

July 28
† Mental Health and Mental Retardation Board, State

August 8
† Veterans' Affairs, Commission on

September 28

Agriculture and Consumer Services, Department of

Calendar of Events
