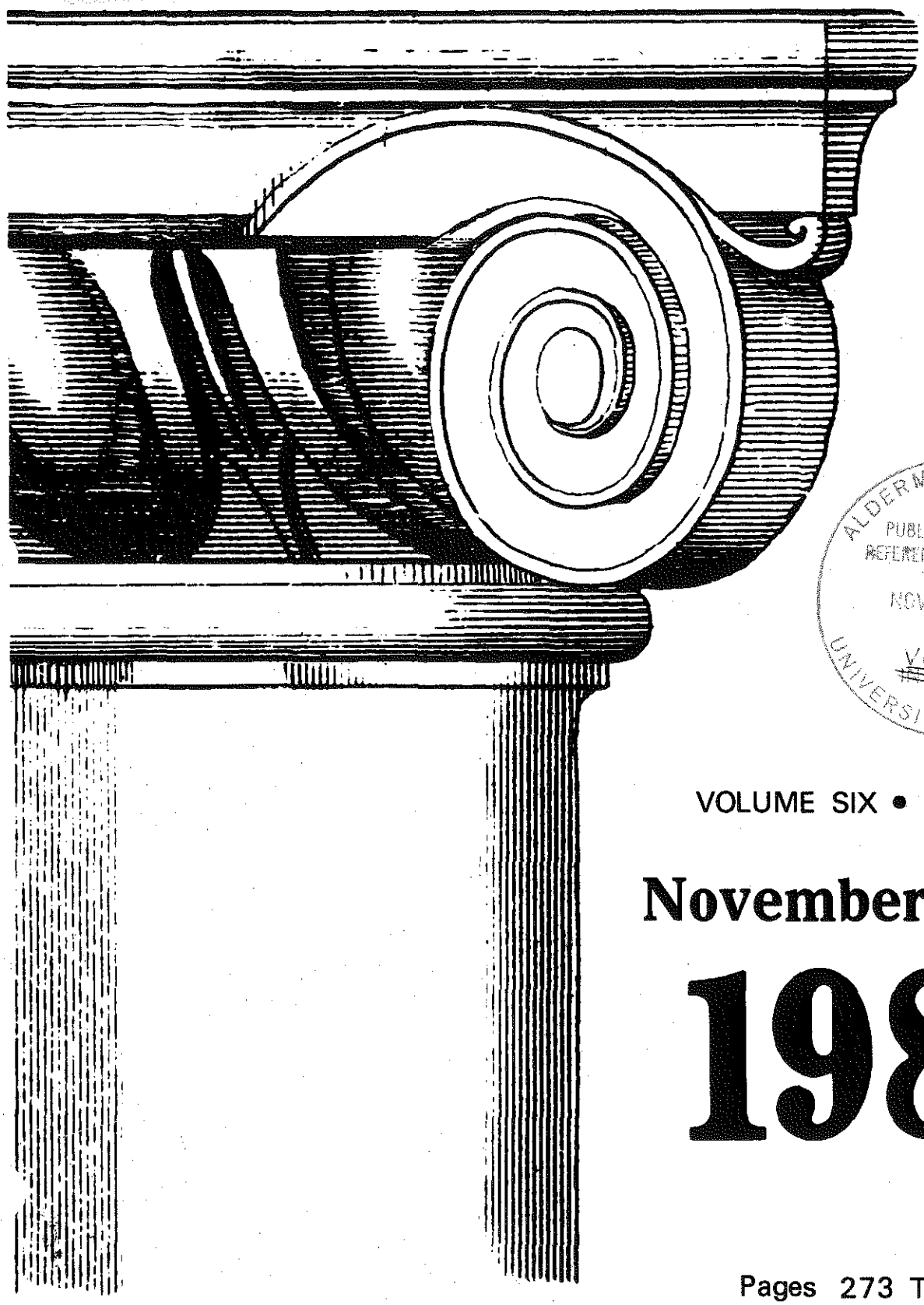
THE VIRGINIA REGISTER

OF REGULATIONS



VOLUME SIX • ISSUE THREE

November 6, 1989

1989

Pages 273 Through 430

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 periodically by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

"The Virginia Register of Regulations" (USPS-001831) is published bi-weekly, except four times in January, April, July and October for $85 per year by the Virginia Code Commission, General Assembly Building, Capitol Square, Richmond, Virginia 23219. Telephone (804) 786-3591. Second-Class Postage Rates Paid at Richmond, Virginia. **POSTMASTER:** Send address changes to the Virginia Register of Regulations, P.O. Box 3-AG, Richmond, Virginia 23208-1108.

The Virginia Register of Regulations is published pursuant to Article 7 of Chapter 1.1:1 (§ 9-6.14:2 et seq.) of the Code of Virginia. Individual copies are available for $4 each from the Registrar of Regulations.

VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

July 1989 through September 1990

MATERIAL SUBMITTED BY Noon Wednesday	PUBLICATION DATE
June 14	July 3
June 28	July 17
July 12	July 31
July 26	Aug. 14
Aug. 9	Aug. 28
Aug. 23	Sept. 11
Sept. 6	Sept. 25
Final Index - Volume 5	

Volume 6 - 1989-90

Sept. 20	Oct. 9
Oct. 4	Oct. 23
Oct. 18	Nov. 6
Nov. 1	Nov. 20
Nov. 15	Dec. 4
Nov. 29	Dec. 18
Dec. 13	Jan. 1 1990
Index 1 - Volume 6	

Dec. 27	Jan. 15
Jan. 10	Jan. 29
Jan. 24	Feb. 12
Feb. 7	Feb. 26
Feb. 21	Mar. 12
Mar. 7	Mar. 26
Index 2 - Volume 6	

Mar. 21	Apr. 9
Apr. 4	Apr. 23
Apr. 18	May 7
May 2	May 21
May 16	June 4
May 30	June 18
Index 3 - Volume 6	

June 13	July 2
June 27	July 16
July 11	July 30
July 25	Aug. 13
Aug. 8	Aug. 27
Aug. 22	Sept. 10
Sept. 5	Sept. 24
Final Index - Volume 6	

TABLE OF CONTENTS

PROPOSED REGULATIONS

FINAL REGULATIONS

EMERGENCY REGULATIONS

GOVERNOR

GENERAL NOTICES/ERRATA

Table of Contents

CALENDAR OF EVENTS

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: **VR 355-27-01.01. Regulations Governing the Licensing of Commercial Blood Banks and Minimum Standards and Qualifications for Noncommercial and Commercial Blood Banks.**

Statutory Authority: §§ 32.1-12 and 32.1-140 of the Code of Virginia.

Public Hearing Date: November 6, 1989 - 10 a.m.
(See Calendar of Events section for addition information)

Summary:

These regulations have been revised to be more consistent with Federal Food and Drug Administration (FDA) regulations, American Association of Blood Banks guidelines and current state-of-the-art blood banking technology.

Provision has been made in the regulations for those noncommercial blood banks or licensed hospitals inspected and accredited by the American Association of Blood Banks to be exempted from the regulations. Enforcement provisions have not been changed. The definitions of plasmapheresis has been changed to allow for either manual or automated methods. A temporary suspension of license can result from a failure to obtain or retain FDA certification.

The director of the blood bank is required to spend an average of one day per week in the licensed facility. Personnel requirements have remained essentially unchanged.

Requirements for blood bank facilities have been changed to be consistent with FDA requirements.

Qualifications of donors have remained unchanged with the exception that persons with clinical or laboratory evidence of HIV or who are at high risk for HIV infection are excluded from donating blood. The testing of blood provisions has been changed to include testing for HIV antibody. The requirement for a check on sterile technique concerning the collection of red blood cells has been deleted.

The requirements for reporting statistical data have been reduced to reflect current needs. Application for licensure forms have remained unchanged and the licensure fee has remained at $250 per year.

VR 355-27-01.01. Regulations Governing the Licensing of Commercial Blood Banks and Minimum Standards and Qualifications for Noncommercial and Commercial Blood Banks.

~~Section 2.0~~

PART I.
~~DEFINITIONS.~~ *GENERAL.*

~~2.1~~ *§ 1.1. Definitions* ~~General. As used in these regulations, the words and terms hereinafter set forth, shall have meanings respectively set forth unless the context clearly requires a different meaning.~~ *The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:*

~~2.2~~ *"Applicant"* means any person, partnership, firm, company, association, corporation or other legal entity which seeks licensure to establish, conduct, maintain or operate a commercial blood bank.

~~2.12~~ *"Autologous transfusion"* ~~refers to~~ *means* the removal and storage of blood or blood components from a donor for subsequent reinfusion *into the same person* .

~~2.3~~ *"Blood bank"* means both noncommercial and commercial blood banks, unless specifically qualified by the terms noncommercial or commercial.

~~2.4~~ *"Board"* means the State Board of Health.

~~2.5~~ *"Commercial blood bank"* means any activity that procures, extracts, collects, prepares, tests, processes, stores, distributes, or sells for profit human whole blood, human whole blood derivatives or blood components specified by these regulations except any such activity conducted by a licensed hospital as part of its regular hospital operations.

~~2.6~~ *"Commissioner"* means the State Health Commissioner.

"Cryoprecipitated Antihemophilic Factor (Human)" means a preparation containing the antihemophilic factor obtained from a single unit of human blood.

~~2.7~~ *"Division of Consolidated Laboratory Services"* means the Department of General Services, Division of Consolidated Laboratory Services of the Commonwealth of Virginia.

~~2.8~~ *"License"* means a nontransferrable document which authorizes the operation of a commercial blood bank within the ~~State~~ *Commonwealth* of Virginia.

~~2.9~~ *"Licensee"* means any person, partnership, firm, association, corporation, company or other legal entity which establishes, conducts, maintains or operates a commercial blood bank under authority of a valid current license issued by the board.

~~2.10~~ *"Noncommercial blood bank"* means any activity that procures, extracts, collects, prepares, tests, processes, stores, or distributes human blood, human whole blood derivatives or blood components specified by regulations; provided, however, such activity conducted by a licensed profit or nonprofit hospital as a part of its regular hospital operations shall be included in such definition.

~~2.11~~ *"Plasmapheresis"* ~~Definition Plasmapheresis is defined as~~ *means* that procedure in which blood is removed from a donor, the plasma separated from the formed elements and the formed elements returned to the donor, during a single visit to the establishment. *The procedure may be performed by manual or automated methods.* The entire procedure shall be described in detail in the blood bank procedure manual.

"Red Blood Cells (Human)" means red blood cells remaining after separating plasma from human blood.

"Whole Blood (Human)" means blood collected from human donors for transfusion to human recipients.

~~Section 1.0~~

PART II .
GENERAL INFORMATION ~~AND PROCEDURES~~ .

~~1.1~~ *§ 2.1.* Authority.

These regulations are authorized by §§ 32.1-2, 32.1-12, 32.1-42 and 32.1-140 of the Code of Virginia.

~~1.2~~ *§ 2.2.* Purpose.

These regulations have been promulgated by the board for the purpose of defining the minimum standards for the number and qualifications of professional and administrative staff of commercial and noncommercial blood banks, for equipment and facilities of such blood banks, for reporting of certain information relative to the operation of such blood banks, and for licensure standards and procedures as set forth herein.

~~1.3~~ *§ 2.3.* Administration.

~~These regulations are administered by the following:~~

~~1.3.1~~ *A.* State Board of Health.

The Board of Health has responsibility for promulgating, amending and repealing regulations pertaining to the licensing of commercial blood banks and for establishing standards for all blood banks.

~~1.3.2~~ *B.* Division of Consolidated Laboratory Services.

The Division of Consolidated Laboratory Services, 1 North 14th Street, Richmond, Virginia 23219, has the responsibility for performing such duties as requested by the commissioner for the administration of these regulations.

~~1.3.3~~ *C.* State Health Commissioner.

The State Health Commissioner has the responsibility for implementing and enforcing these regulations. The commissioner's address is: State Health Department, James Madison Building, 109 ~~North~~ Governor Street, Richmond, Virginia 23219.

~~1.4~~ *§ 2.4.* Effective date.

~~These regulations shall be effective on August 1, 1980~~

Effective date of original regulations: August 1, 1980.

Proposed effective date of Amendment No. 1: March 12, 1990.

~~1.5~~ *§ 2.5.* Exceptions.

In accordance with the Code of Virginia Title 32.1, Chapter 5, Article 3, license is not required of noncommercial blood banks or licensed hospitals. *Those noncommercial blood banks or licensed hospitals inspected and accredited by the American Association of Blood Banks, or other nationally recognized blood bank accrediting agency acceptable to the commissioner shall be deemed in compliance with the provisions of these rules and regulations provided they furnish the commissioner with a copy of their inspection reports, if requested. Provided further, the noncommercial blood banks or licensed hospitals notify the commissioner within 10 days after receipt of any notice of revocation or suspension by the American Association of Blood Banks, or other recognized blood bank accrediting agency acceptable to the commissioner.*

~~1.6 Severability.~~

~~If any provision of these regulations or the application thereof to any facility or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the regulations which can be given effect, and to this end the provisions of the regulations are declared to be severable.~~

~~1.7~~ *§ 2.6.* Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, which is codified as Chapter 1.1:1 of Title 9, § 9-6.14:1

et seq. of the Code of Virginia, governs the adoption, amendment, modification, and revision of these regulations, and conduct of all proceedings hereunder and appeals therefrom.

~~1.8~~ *§ 2.7.* Enforcement.

~~The following provisions of Chapter 1, Article 4 of Title 32.1 of the Code of Virginia, shall apply:~~

~~1.8.1 "32.1-25 Right of entry to inspect, etc: warrants. Upon presentation of appropriate credentials and upon consent of the owner or custodian, the commissioner or his designee shall have the right to enter at any reasonable time onto any property to inspect, investigate, evaluate, conduct tests or take samples for testing as he reasonably deems necessary in order to determine whether the provisions of these regulations, any order of the board or commissioner or any conditions in a permit, license or certificate issued by the board or commissioner are being complied with. If the commissioner or his designee is denied entry, he may apply to appropriate circuit court for an inspection warrant authorizing such investigation, evaluation, inspection, testing or taking of samples for testing as provided in Chapter 24 of Title 10.2."~~

~~1.8.2 "32.1-26 Orders. The board is authorized to issue orders to require any person to comply with the provisions of any law administered by it, the commissioner or the department or any regulations promulgated by the board or to comply with any case decision as defined in 9-6.14:4 of the board or commissioner. Any such order shall be issued only after a hearing with at least thirty days notice to the affected person of the time, place and purpose thereof. Such order shall become effective not less than fifteen days after mailing a copy thereof by certified mail to the last known address of such person. The provisions of this section shall not affect the authority of the board to issue separate orders and regulations to meet any emergency as provided in Section 32.1-13."~~

~~1.8.3 § 32.1-27 Penalties, injunctions, civil penalties and charges for violations.~~

~~A. Any person willfully violating or refusing, failing or neglecting to comply with any regulation or order of the board or commissioner or any provision of this title shall be guilty of a Class 1 misdemeanor unless a different penalty is specified.~~

~~B. Any person violating or failing, neglecting, or refusing to obey any lawful regulation or order of the board or commissioner or any provision of this title, may be compelled in a proceeding instituted in an appropriate court by the board or commissioner to obey such regulations, order or provision of this title and to comply therewith by injunction, mandamus, or other appropriate remedy.~~

~~C. Without limiting the remedies which may be obtained in subsection 2, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to subsection B shall be subject, in the discretion of the court, to a civil penalty not to exceed ten thousand dollars for each violation. Each day of violation shall constitute a separate offense.~~

~~D. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the board or commissioner or any provision of this title, the board may provide, in an order issued by the board against such person, for the payment of civil charges for past violations in specific sums not to exceed the limit specified in subsection C. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection C of this section."~~

The provisions of §§ 32.1-25, 32.1-26 and 32.1-27 shall apply.

~~Section 3.0~~

PART III.
CHARACTER OF LICENSES.

§ 3.1. General.

No person shall establish, maintain, conduct or operate a commercial blood bank in this Commonwealth unless such person possesses a license issued by the commissioner pursuant to these regulations.

§ 3.2. Application procedure.

Any applicant may apply to the Division of Consolidated Laboratory Services for a license to establish, maintain, conduct or operate a commercial blood bank by filing forms accompanying these regulations with the Division of Consolidated Laboratory Services at the address indicated in ~~1.3.2~~ *§ 2.3 B* .

§ 3.3. Request for issuance of license.

Commercial blood bank licenses shall be issued by the commissioner, but all requests for licensing shall be submitted initially to the Division of Consolidated Laboratory Services. The procedure for obtaining the license shall include the following steps:

~~3.3.1~~ *1.* Requests for application forms shall be made in writing to the Division of Consolidated Laboratory Services.

~~3.3.2~~ *2.* Applications for license or license renewal to establish or maintain a commercial blood bank shall be made and submitted to the Division of Consolidated Laboratory Services and shall be accompanied by a check or money order for the fee, payable to the Treasurer of Virginia.

§ 3.4. License fees.

~~3.4.1~~ *A.* The initial application for a license to operate a commercial blood bank shall be submitted on forms accompanying these regulations and shall be accompanied by a fee of $250.

~~3.4.2~~ *B.* The annual renewal fee for a license to operate a commercial blood bank shall be $250.

§ 3.5. Classification.

Any license issued by the State Board of Health may be provisional or general.

~~3.5.1~~ *A.* A provisional license may be granted whenever the commissioner determines upon completion of a preliminary inspection prior to commencement of operation that the commercial blood bank's equipment and facilities are adequate to meet minimum standards established herein subject to final inspection under actual operating conditions.

~~3.5.2~~ *B.* A general license shall be granted to any commercial blood bank which, in the opinion of the commissioner, is in substantial compliance with the standards established herein.

~~3.5.3~~ *C.* No such license, either provisional or general, shall be assignable or transferrable.

~~3.5.4~~ *D.* Separate license shall be required by blood banks maintained on separate premises even though they are owned or operated under the same management. A separate fee shall be paid for each separate license.

§ 3.6. Duration of license.

~~3.6.1~~ *A.* A provisional license shall be for any period not more than six months, as the board shall determine proper, unless terminated for cause as stated herein.

~~3.6.2~~ *B.* A general license by the board shall be for a period of one year from the date the license is issued, unless terminated for cause as stated herein.

§ 3.7. Continuance of a license.

~~3.7.1~~ *A.* No license shall be deemed to continue beyond the expiration of the term set therefore, unless the licensed commercial blood bank submits, within 30 days prior to the expiration of such license, an application seeking a license for a further period.

~~3.7.2~~ *B.* Subject to ~~provision 3.7.1~~ *§ 3.7 A* , unless the commissioner denies an application for a license or the renewal of a license, the license, whether provisional or general, shall continue in force until such time as the commissioner acts on the renewal application.

§ 3.8. Temporary suspension of a license.

Any license issued by the commissioner may be suspended pending a hearing to determine whether to revoke such license if in the opinion of the commissioner:

~~3.8.1~~ *1.* The applicant has failed or refused to complete the application, or to appear for or to complete an interview, or otherwise to provide additional facts or evidence requested by the commissioner to enable ~~it~~ *him* to ascertain whether the license should be granted; ~~or~~

~~3.8.2~~ *2.* The license has been obtained by misrepresentation of material, facts or fraud ~~.~~ *; or*

3. The applicant has failed to obtain a license from the U.S. Food and Drug Administration or has been suspended by the U.S. Food and Drug Administration or the applicant's license from the U.S. Food and Drug Administration has expired.

§ 3.9. Plan of correction.

~~3.9.1~~ *A.* Each commercial blood bank shall submit an acceptable plan for correcting licensing discrepancies to the commissioner when requested. The plan of correction shall contain at least the following information:

~~(a)~~ *1.* The method(s) implemented to correct licensing discrepancies; and

~~(b)~~ *2.* The date on which such correction(s) will be completed.

~~3.9.2~~ *B.* The director of the commercial blood bank shall be responsible for assuring that the plan of correction is completed.

§ 3.10. Revocation of license.

The commissioner may revoke a license to operate a commercial blood bank upon the findings of one or more of the following:

~~3.10.1~~ *1.* Violation of the provisions of the licensing act or the rules and regulations of the board adopted thereunder.

~~3.10.2~~ *2.* Permitting, aiding, or abetting the commission of any illegal act by the agency.

~~Before a revocation of a license is effective, the provisions of the Administrative Process Act shall be observed.~~

~~3.10.3~~ *3.* Determination by the commissioner after a hearing as provided in § 3.8 that the operation of a blood bank is not in conformity with the law or these regulations.

Before a revocation of a license is effective, the provisions of the Administrative Process Act shall be observed.

~~Section 4.0~~

PART IV.
BLOOD BANK PERSONNEL QUALIFICATIONS.

~~Blood Bank Director - The blood bank shall be under the direction of a qualified person.~~

§ 4.1. Administration.

Every blood bank shall have a director qualified under ~~paragraph~~ § 4.2 of these regulations. The director shall administer the technical and scientific operation of the ~~laboratory including the reporting of findings of laboratory test~~ *blood bank* .

~~4.1.1~~ *A.* The director shall serve the blood bank ~~laboratory~~ full time, or on a regular part-time basis. If on a regular part-time basis, he (i) shall not individually serve as director of more than three blood bank ~~laboratories~~ *facilities* (hospital or independent), or (ii) if he does individually serve as director of more than three blood bank ~~laboratories~~ *facilities* , he shall provide for an associate in each additional blood bank laboratory, qualified under the standard in ~~paragraph~~ § 4.2 ~~of this section~~ , to serve as assistant director in each blood bank ~~laboratory~~ . Such assistant director shall not serve more than three blood bank ~~laboratories~~ *facilities* .

~~4.1.2~~ *B.* Commensurate with the ~~laboratory~~ *blood bank* workload, the director shall spend ~~a minimum of eight hours per week~~ *an average of one day per week* in the blood bank ~~laboratory~~ to direct and supervise the technical performance of the staff and shall be readily available for personal or telephone consultation.

~~4.1.3~~ *C.* The director shall be responsible for the proper performance of all tests made in the blood bank laboratory.

~~4.1.4~~ *D.* The director shall be responsible for the development and annual review of a written procedure manual. This manual shall describe in detail all procedures, policies and the use of all record forms. ~~A copy shall be filed with the commissioner at the time of application for licensure~~ .

~~4.1.5~~ *E.* The director shall be responsible for the employment of qualified laboratory personnel and their inservice training.

~~4.1.6~~ *F.* If the director shall be continuously absent for more than one month, arrangements shall be made for a qualified substitute director. A notice of the director's absence and the name of the substitute director shall be filed with the commissioner prior to the beginning date of the absence.

§ 4.2. Blood bank director; qualification.

~~Standard; Blood Bank Laboratory Director qualification.~~ The director shall meet the requirements of *subsection* ~~4.2.1, 4.2.2, or 4.2.3~~ *A, B or C of this section* .

~~4.2.1~~ *A.* A physician licensed in the ~~State~~ *Commonwealth* of Virginia and certified or is eligible therefore in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology.

~~4.2.2~~ *B.* A physician licensed in the ~~State~~ *Commonwealth* of Virginia who is certified by an American Board, or is eligible therefore, and who has acquired a proficiency in the field of immunohematology or blood banking, or subsequent to graduation has had four or more years of general laboratory training and experience of which at least two were spent acquiring proficiency in the field of immunohematology.

~~4.2.3~~ *C.* Holds an earned doctoral degree from an accredited institution with a chemical, physical, or biological science as a major subject, and is certified by the American Board, or is eligible therefore, and has acquired a proficiency in the field of immunohematology or blood banking or subsequent to graduation has had four or more years of general laboratory training and experience, of which at least two were spent acquiring proficiency in the field of immunohematology.

§ 4.3. Blood bank supervision.

The blood bank ~~laboratory~~ shall be supervised by personnel who meet the qualifications specified below.

~~4.3.1~~ General.

The blood bank shall have one or more blood bank supervisors who, under the general direction of the blood bank director, supervise technical personnel and reporting of findings, perform tests requiring special scientific skills, and, in the absence of the director, are held responsible for the proper performance of all ~~laboratory~~ *blood bank* procedures. The director of the blood bank may also serve as the supervisor. If the supervisor is absent more than two hours during the operation of the blood bank, the director or another qualified supervisor shall be present on the premises.

§ 4.4. Supervisor; qualification.

A. The blood bank supervisor shall meet one of the following requirements:

~~4.4.1~~ *1.* Is a physician or holds an earned doctoral degree from an accredited institution with a chemical, physical, or biological science as his major subject and subsequent to graduation has had at least one year technical experience in immunohematology.

~~4.4.2~~ *2.* Holds a master's degree from an accredited institution with a major in one of the chemical, physical, or biological sciences and subsequent to graduation has had at least one year technical

experience in immunohematology.

~~4.4.3~~ *3.* (i) Has earned a bachelor's degree in medical technology from an accredited college or university; or (ii) has successfully completed three academic years of study (a minimum of 90 semester hours or equivalent) in an accredited college or university, which met the specific requirements for entrance into, and has successfully completed a course of training of at least 12 months in a school of medical technology approved by the Council on Medical Education of the American Medical Association; and is certified by a recognized national professional organization in medical technology, accredited by the Council on Medical Education of the American Medical Association, and has had at least one year of technical laboratory experience in immunohematology.

~~4.4.4~~ *4.* Has earned a bachelor's degree in one of the chemical, physical, or biological sciences in addition to at least two years of ~~laboratory~~ experience and training in blood banking.

~~4.4.5~~ *5.* ~~For~~ A person not meeting the above requirements but having a minimum of five years blood bank experience, ~~he~~ may apply to the State Health Commissioner for approval as a supervisor on an individual basis.

~~4.4.6~~ *B.* Supervisor; qualification for a donor drawing center.

For a center which is limited to the single function of drawing blood for shipment to a processing center or is limited to the sole function of collection and production of plasma by the procedure of plasmapheresis, the following minimum qualifications for supervisor are applicable:

1. A registered nurse licensed in Virginia who has a bachelor's degree in nursing and who has one year of experience in a blood bank approved by a state or national accrediting agency, *or*

2. A registered nurse with a three-year diploma plus two-years experience or a registered nurse with a two year associate degree plus three years experience in a blood bank approved by a state or national accrediting agency.

However, a supervisor who meets the requirements of *subdivisions* ~~4.4.1~~ ~~4.4.A~~ ~~through~~ ~~4.4.5~~ ~~4.4.E~~ *A 1 through A 5 of § 4.4* may also supervise a donor drawing center.

§ 4.5. ~~Technical Personnel~~ Commensurate with the volume and diversity of the tests performed and blood components prepared and preserved, the director shall have available for work each day of operation a sufficient number of laboratory technicians, phlebotomists, centrifuge operators, and receptionists to fulfill the requirements of these regulations. Records of their qualifications and training in blood banking laboratory tests and procedures shall be on file in the ~~blood bank~~ *facility* and available for inspection.

~~Section 5.0~~

PART V.
BLOOD BANK PHYSICAL STRUCTURE AND ENVIRONMENT.

~~5.1. General.~~

~~Suitable quarters with proper lighting, construction, and equipment shall be available to provide for the safety and protection of donors, staff and the public. The quarters for the blood bank shall comply with the uniform state-wide building code, adopted pursuant to § 36-98 of the Code of Virginia.~~

§ 5.1. Facilities.

The blood bank facilities shall comply with Food and Drug Administration, HHS, regulations as specified in Subpart C - Plant and Facilities, paragraph 606.40 - Facilities, 21 CFR Ch. 1 (4-1-88 Edition) which are incorporated by reference in these regulations. In addition, the blood bank facilities shall comply with the Uniform Statewide Building Code, adopted pursuant to § 36-98 of the Code of Virginia.

~~5.2. Preventative Maintenance.~~

~~Blood banks shall establish, in conformance with the uniform standard building code, a preventative maintenance program to ensure that equipment is operative and that interior and exterior of the building are maintained in good repair and free from hazards or litters.~~

~~5.3. Housekeeping and Maintenance.~~

~~The blood bank shall be clean, air conditioned and well lighted.~~

~~PART II. STANDARDS FOR BLOOD AND BLOOD PRODUCTS.~~
~~Section 6.0~~

PART VI.
WHOLE BLOOD (HUMAN).

§ ~~6.1. Proper Name and Definition.~~

~~The proper name of this product shall be Whole Blood (Human). Whole Blood (Human) is defined as blood collected from human donors for transfusion to human recipients.~~

§ ~~6.2.~~ *§ 6.1.* Suitability of donor.

~~6.2.1~~ *A.* Method of determining.

The suitability of a donor as a source of Whole Blood

(Human) shall be determined by a physician licensed in the Commonwealth of Virginia or by persons under his supervision and trained in determining suitability. Such determinations shall be made on the day of collection from the donor by means of medical history, a test for hemoglobin level, and such physical examination as appears necessary to a physician who shall be present on the premises, when examinations are made, except that the suitability of donors may be determined when a physician is not present on the premises, provided the establishment (i) maintains on the premises, a manual of standard procedures and methods, as prescribed in ~~4.1.5~~ *§ 4.1 D* , that shall be followed by employees who determine suitability of donors, and (ii) maintains records indicating the name and qualifications of the person immediately in charge of the employees who determine the suitability of donors when a physician is not present on the premises.

~~6.2.2~~ *B.* Qualifications of donor; general.

Except as provided in ~~paragraph 6.2.4 and 6.2.5~~ *§§ 6.1 D and 6.1 E* , no person may serve as a source of Whole Blood (Human) more than once in eight weeks. In addition, donors shall be in good health, as indicated in part by a medical history that shall obtain data relating to the following requirements:

~~(a)~~ *1.* Absence of acute respiratory diseases;

~~(b)~~ *2.* Absence of any infectious skin disease at the site of phlebotomy and from any such diseases generalized to such ~~as~~ *an* extent as to create a risk of contamination of the blood;

~~(c)~~ *3.* Absence of any disease transmissible by blood transfusion;

~~(d)~~ *4.* Absence of advanced cardiovascular disease;

~~(e)~~ *5.* Absence of uncontrolled diabetes;

~~(f)~~ *6.* Absence of blood dycrasias;

~~(g)~~ *7.* Absence of bleeding tendency;

~~(h)~~ *8.* Absence of recurring convulsions;

~~(i)~~ *9.* No existing pregnancy, or pregnancy within preceding six weeks;

~~(j)~~ *10.* Absence of an active rheumatic fever within the previous five years;

~~(k)~~ *11.* Donor does not engage in illegal use of drugs as determined by questioning and by inspection of arms for marks suggestive of injections not prescribed or related to repeat plasmapheresis;

~~(l)~~ *12.* Donor has not been immunized to human blood group antigens, unless the container shall indicate such information;

~~(m)~~ *13.* Donor is not on medication except following evaluation and acceptance by attending physician;

~~(n)~~ *14.* Absence of appearance of being currently under the influence of alcohol or drugs.

~~6.2.3~~ *C.* Additional qualifications of donor.

Every blood donor shall meet all of the criteria set forth below:

~~(a)~~ *1.* Age. Blood donors shall be between the ages of 17 through 65 (up to 66th birthday); provided, however,

~~(1)~~ *a.* Donors 17 years of age must have a written consent signed by a parent or guardian.

~~(2)~~ *b.* After the 66th birthday, donors may be accepted at the discretion of the blood bank physician ~~if they have specific written consent from a physician within two weeks before the date of donation, provided they meet all other criteria for acceptability~~ .

~~(b)~~ *2.* Temperature. The temperature of the donor shall not exceed 99.6°F (37.5°C).

~~(c)~~ *3.* Hemoglobin or hematocrit. The preferred method is determination of the hemoglobin concentration.

~~(1)~~ *a.* The hemoglobin shall be no less ~~that~~ *than* 12.5g. per 100 dl; or

~~(2)~~ *b.* The hematocrit value, if substituted for the hemoglobin concentration, shall be no less than 38%.

~~(d)~~ *4.* Pulse. The pulse shall reveal no pathological cardiac irregularity and should be between 50 and 100 beats per minute.

~~(e)~~ *5.* Blood pressure. The systolic blood pressure of the donor shall be between 90 and 180 mm. of mercury and the diastolic shall not be below 50 or above 100 mm. of mercury.

~~(f)~~ *6.* Dental surgery. Tooth extraction or other minor oral surgery during the preceding 72 hours shall exclude a donor.

~~(g)~~ *7.* Receipt of blood or blood components. Donors who during the preceding six months have received blood or human blood components known to be a possible source of hepatitis shall be excluded.

~~(h)~~ *8.* Infectious disease. A donor shall be free from infectious diseases known to be transmissible by blood

insofar as can be determined by usual examinations. He shall not serve as a whole blood donor if there is evidence of any of the following:

~~(1) Confirmed brucellosis.~~

~~(2) Relapsing fever within two years.~~

~~(3)~~ *a.* Active tuberculosis.

~~(4) Current active syphilis or suspected active syphilis.~~

~~(5) A reactive serologic test for syphilis.~~

~~(6)~~ *b.* Viral Hepatitides. No individual shall be used as a source of whole blood or blood components if he has: ~~(1)~~ *(i)* a history of viral hepatitis ; ~~a history of a previous positive test for hepatitis~~ ; *(ii) a history of reactive test for hepatitis B surface antigen (HBsAg);* ~~(2)~~ *(iii)* a history *of a tattoo or* of close contact within six months of donation with an individual having viral hepatitis; ~~(3)~~ *(iv)* a history of having received within six months human blood, or any derivative of human blood which the National Institutes of Health has advised the licensed establishment is a possible source of viral hepatitis; ~~(4)~~ *(v)* a donor shall also be permanently excluded if his was the only unit of blood, blood component or derivative administered to a patient who within six months developed post-transfusion hepatitis and who received no other icterogenic blood fractions, or, if more than one recipient receiving blood, blood components, or derivatives prepared from his blood had developed post-transfusion hepatitis.

~~(7)~~ *c.* Malaria.

~~(a)~~ *(1)* Donors meeting one or more of the following criteria shall be excluded from whole blood donation for three years.

(a) After becoming asymptomatic or after cessation of therapy whichever is later in prospective donors who have had malaria.

(b) Immigrants or visitors from endemic areas *even* if they have been asymptomatic.

(c) Civilians returning from endemic areas who have taken prophylactic anti-malaria drugs.

~~(b)~~ *(2)* Travelers in areas considered endemic for malaria by the malaria program, ~~Center for Disease Control, Department of Health, Education, and Welfare,~~ *Centers for Disease Control, U.S. Department of Health and Human Services,* may be accepted as regular blood donors six months after their return to the United States, provided they have been free of symptoms and have not taken any antimalarial drugs.

~~(c)~~ *(3)* Donations to be used for the preparation of plasma, plasma components or fraction devoid of intact red cells are exempted from these restrictions.

~~(i)~~ *9.* Immunizations or vaccinations. Symptom-free donors who have been recently immunized may be accepted with the following exceptions:

~~(1) Smallpox. Doners are acceptable either after the scab has fallen off or two weeks after an immune reaction.~~

~~(2)~~ *a.* Measles (rubeola), mumps, yellow fever, oral polio vaccine, rabies and animal serum products. Donors are acceptable two weeks after their last injection.

~~(3)~~ *b.* German measles (rubella). Donors are acceptable ~~two months~~ *four weeks* after their last injection.

~~(4) Rabies (therapeutic): donors will be deferred until one year after their last injection.~~

~~(j) Allergy - A history of an attack of drug allergy within six months is cause for determent. A symptomatic allergy such as asthma, hay fever or urticaria, may be accepted.~~

~~(k)~~ *10.* Weight and amount of blood. Donors weighing 110 lbs. (50 kg) or more may ordinarily give 450 + ml. of blood, in addition to pilot samples which shall not exceed 30 ml. Donors weighing less than 110 lbs. may be bled proportionately less in a reduced volume of anticoagulant. All other prospective donations of blood exceeding the recommended amounts shall be subject to evaluation by a licensed physician.

~~(l)~~ *11.* Checking arms. Both arms ~~must~~ *shall* be checked for signs of multiple punctures. Donors with signs of addiction stigmata shall be rejected permanently.

~~(m)~~ *12.* Fasting. Fasting prior to blood donation is unnecessary.

~~6.2.4~~ *D.* Frequency of donation.

A person may serve as a source of Whole Blood (Human) no more than six times a year provided that the duration between each two successive donations is not shorter than eight weeks. An exception to this rule may be made upon the recommendation of both the director of the blood bank and a licensed physician after proper physical examination of the donor *certifying that the donor is in good health as indicated in subsections B and C of this section* . Records of every exception shall be maintained in the blood bank.

~~6.2.5~~ *E.* Autologous transfusion.

Exceptions to the usual requirements of the donor acceptability can be made with the joint consent of both the patient's doctor and the director of the blood bank.

~~(a)~~ *1.* Age. No limitation.

~~(b)~~ *2.* Hemoglobin. Minimum 11 grams/100 ml.

~~(c)~~ *3.* Interval between donations at least four days except in special circumstances, provided the hemoglobin is maintained at 11 grams/100 ml.

~~(d)~~ *4.* Up to 10% of blood volume and never more than 450 ml at a single donation in an appropriate amount of anticoagulant.

~~(e)~~ *5.* Pregnancy. May donate if autologous or exchange transfusion is anticipated.

F. Persons in the following categories should not donate blood or blood components to be used for transfusion or donate plasma for further manufacture:

1. Persons with clinical or laboratory evidence of HIV or HTLV 1 infection.

2. Men who have had sex with another man one or more times since 1977.

3. Past or present intravenous drug abusers.

4. Persons emigrating since 1977 from countries where heterosexual activity is thought to play a major role in transmission of HIV or HTLV 1.

5. Persons with hemophilia who have received clotting factor concentrates.

6. Men and women who have engaged in prostitution.

7. Sexual partners of any of the above.

§ ~~6.3~~ *§ 6.2.* Collection of blood.

~~6.3.1~~ *A.* Blood bank products.

Blood banks shall engage only in the collection, preparation and storage of such blood and blood products as specifically authorized by the commissioner.

~~6.3.2~~ *B.* Supervision.

A physician shall be present on the premises when blood is being collected, except that blood may be collected when a physician is not present on the premises, provided the establishment ~~(1)~~ *(i)* maintains on the premises, a manual of procedures and methods, as prescribed in ~~4.1.4~~ *§ 4.1 D* that shall be followed by employees who collect blood, and ~~(2)~~ *(ii)* maintains records indicating the name and qualifications of the person immediately in charge of the employees who collect blood when a physician is not present on the premises. A current detailed manual outlining the operations of the blood bank and all applicable quality assurance records shall be maintained.

~~6.3.3~~ *C.* Blood containers.

Blood containers and donor sets shall be pyrogen-free, sterile and identified by lot number. The amount of anticoagulant required for the quantity of blood to be collected shall be in the blood container when it is sterilized. In addition, all container and donor set surfaces that come in contact with blood used in the processing of Whole Blood (Human) shall be water repellent.

~~6.3.4~~ *D.* The anticoagulant solution.

The anticoagulant solution shall be sterile and pyrogen-free. One of the following ~~formulae~~ *anticoagulant solutions* shall be used ~~in the indicated volumes~~ :

~~(1) Anticoagulant acid citrate dextrose solution (ACD)~~

	~~Solution A~~	~~Solution B~~
~~Tri sodium Citrate (Na3C6H5O7 2H2O~~	~~22.0 gm~~	~~13.2 gm~~
~~(C6H8O7 H2O) Citric Acid (monohydrate)~~	~~8.0 gm~~	~~4.8 gm~~
~~(C6H12O6 H2O) Dextrose~~	~~24.5 gm~~	~~14.7 gm~~
~~Water for injection (U.S.).) to mak~~	~~1,000 ml~~	~~1,000 ml~~
~~Volume per 100 ml blood~~	~~15 ml~~	~~25 ml~~

~~(2) Anticoagulant heparin solution~~

~~Heparin sodium (U.S.P.)~~	~~75,000 units~~
~~Sodium chloride injection (U.S.P.) to make~~	~~1,000 ml~~
~~Volume per 100 ml blood~~	~~6 ml~~

~~(3) Anticoagulant citrate phosphate dextrose solution (CPD).~~

~~Tri sodium citrate (Na3C6H5O7 2H2O)~~	~~26.3 gm~~
~~Citric acid (C6H8O7 H2O) (monohydrate)~~	~~3.27 gm~~
~~Dextrose (C6H12O6 H2O)~~	~~25.5 gm~~
~~Monobasic sodium phosphate (NaH2PO4 H2O)~~	~~2.22 gm~~
~~Water for injection (U.S.P.) to make~~	~~1,000 ml~~
~~Volume per 100 ml blood~~	~~14 ml~~

1. Anticoagulant acid citrate dextrose solution (ACD)

2. Anticoagulant heparin solution

3. *Anticoagulant citrate phosphate dextrose solution (CPD)*

4. *Anticoagulant citrate phosphate dextrose adenine 1 (CPDA-1)*

~~6.3.5~~ *E.* Donor identification.

Blood donors shall be identified by name, address and social security number *or control number that can be related directly to the donor* . The inclusion of a photograph on a continuous donor card is highly desirable. The source of donor identification shall be written on the donor registration card or sheet.

~~6.3.6~~ *F.* Donor blood unit identification.

The identification system shall make it possible to trace a unit of any blood or blood component from its source bank to its destination ~~and/~~ or final disposition *, or both* , and from its destination ~~and/~~ or final disposition *, or both,* back to its source.

~~6.3.7~~ *G.* Donor records.

Suitable records shall be maintained for a period of not less than five years which provide all data secured and developed by the blood bank concerning donor identification, qualification and registration, as well as the processing, storage and distribution of blood and plasma. A numerical or code system shall be assigned to and identify the unit of blood (or component) of a donor in all stages of processing. All records shall be maintained on the premises.

~~6.3.8~~ *H.* Prevention of contamination of the blood.

The skin of the donor at the site of phlebotomy shall be prepared thoroughly and carefully by a method that gives maximum assurance of a sterile container of blood. Once the skin has been prepared, there should be no palpation of the vein until after the skin has been punctured.

~~6.3.9~~ *I.* Materials and instruments.

~~(a)~~ *1.* Apparatus or instruments such as syringes, needles and lancets or other blood-letting devices capable of transmitting infection from one donor to another shall be sterile single use instruments insofar as possible.

~~(b)~~ *2.* All such instruments intended for reuse shall be heat sterilized prior to each use and protected against contamination. Heat sterilization shall be by autoclaving for 30 minutes at 121.5°C (15 lb. p.s.i. pressure), by dry heat for two hours at 170°C, or by boiling in water for 30 minutes. Times, temperatures and pressures in excess of those stated are permissible. An acceptable alternative is gas sterilization.

~~(c)~~ *3.* Such heat sterilization shall include the use of a heat indicator (such as a maximum registering thermometer, heat sensitive tapes and spore strips or ampules) which will serve as evidence of proper sterilization. A record of sterilization of materials and instruments prepared within the facility shall include the date, time interval, temperature and mode and shall be retained for five years.

~~(d)~~ *4.* Instruments used in puncturing the skin, if not prepared for reuse, shall be disposed of in such a way that they cannot be reused.

~~(e)~~ *5.* Thermometers shall be sufficiently cleansed before use to minimize the transmission of disease.

~~6.3.10~~ *J.* Donor reaction.

The staff concerned with blood collection shall be instructed in the first aid procedures to be used in the event of a reaction, and suitable drugs and supplies shall be immediately available for use. Donors shall be kept under continuous observation throughout the entire procedure of blood collection ~~and for at least 15 minutes afterwards~~ . *Donor shall be observed for at least 15 minutes post-phlebotomy, unless the waiting period is waivered by the donor.*

~~6.3.11~~ *K.* Pilot samples for laboratory tests.

Pilot samples for laboratory tests shall meet the following standards:

~~(a)~~ *1.* One or more pilot samples shall be provided with each unit of blood and all pilot samples shall be from the donor who is the source of the unit of blood.

~~(b)~~ *2.* All samples for laboratory test performed by the ~~manufacturer~~ *blood bank* and all pilot samples accompanying a unit of blood shall be collected at the time of filling the final container by the person who collects the unit of blood.

~~(c)~~ *3.* All containers for all samples shall bear the donor's identification before collecting the samples.

~~(d)~~ *4.* All containers for pilot samples accompanying a unit of blood shall be attached to the whole blood container before blood collection, in a tamper proof manner that will conspicuously indicate removal and reattachment.

~~(e)~~ *5.* The integral tubing of a container so equipped may serve as a pilot tube when filled with blood at the time of blood collection, if it is capable of separation from the container without breaking the hermetic seal. If anticoagulated blood is used for the pilot sample, it shall be preserved with ACD ~~or CPD~~ *CPDA-1* solution in the prescribed proportion, or with

an alternate solution acceptable to the board.

~~6.3.12~~ *L.* Method of blood collection.

The method employed for blood collection must conform to accepted standards of asepsis. The procedure of arm preparation shall be one that gives maximum assurance of sterility of the collected blood, as well as assurance of protection to the donor. The manufacturer's lot number shall be recorded for sets used in the collecting of whole blood, the sets shall have been shown to be sterile and pyrogen-free by the manufacturer of the sets. The blood unit number satisfies the requirement for a "lot number." The blood collection shall be made into a sterile system which may be either closed or vented if adequately protected against contamination. Each blood container, when filled, shall be the container used later for dispensing the whole blood. Other containers may be attached to the original container by the manufacturer in such a way that transfer of blood can be accomplished without breaking the hermetic seal. During blood collection, the anticoagulant and the entering blood shall be thoroughly mixed. The contents of the blood container shall be mixed periodically at intervals not exceeding 60 seconds each. The outside of the blood container shall be kept clean and free of blood to protect workers against exposure to disease transmissible by blood. If blood is collected into an evacuated container of rigid shape, the container shall be kept in an inverted position during the bleeding.

~~6.3.13~~ *M.* Storage and refrigeration.

~~(a)~~ *1.* As soon as possible, but in no instance later than 15 minutes after collection, the blood shall be placed in storage at a temperature between 1°C and 6°C held within a 2°C range, except that whole blood or plasma from which platelet concentrate will be derived may be maintained at 22 ± 2°C until the platelet concentrate is separated but not exceeding four hours after collection. Freezing must be avoided at all times. If transportation of blood from collection center to processing laboratory is necessary, it shall be transported in clean shipping containers provided with refrigeration sufficient to hold the blood between 1°C and 10°C if it has already been cooled; however, if the blood has not been cooled, the shipping containers shall provide sufficient refrigeration to bring the temperature continuously toward a range between 1°C and 10°C while in transit. Immediately upon receipt at the blood bank laboratory, the blood shall be stored between 1°C and 6°C with a 2°C range until issued.

~~(b)~~ *2.* Each storage refrigerator shall be equipped with a recording thermometer *or central monitoring system,* the recordings of which shall be kept in a file for a minimum of one year, or the refrigerator shall be equipped with a maximum-minimum thermometer, the daily maximum and minimum readings of which shall be kept on file for a minimum of one year. In addition to the recording thermometer, there shall be two other thermometers inside the refrigerator, one on the top and one on the bottom shelf. The sensing element of these thermometers shall be immersed in water or a 10% glycerol solution so that any temperature change will simulate that of the stored blood. This will serve to confirm the readings shown by the recording thermometer or by the maximum-minimum thermometer. This thermometer shall be read and recorded weekly on the recording chart.

~~(c)~~ *3.* There shall be an alarm system to warn of temperatures outside the required limits (1°C to 6°C). The alarm system *should* warn of temperatures outside the limits of median temperature selected by the blood bank. For example, if the temperature selected is 4°C plus or minus 1°C, then the alarm should warn of temperatures colder than 3°C and warmer than 5°C. Also, the alarm system shall be always within hearing of some responsible person. Blood shall be stored within this temperature range until used for whole blood transfusions or assigned for processing into plasma or fractionation products, except as provided in ~~paragraph 6.3.14~~ *§ 6.2 N* . Only blood, blood products, and blood bank reagents shall be stored in the refrigerator used for whole blood storage.

The requirement for the alarm system to be within hearing range of some responsible person shall be considered fulfilled if the alarm system is connected with a telephone exchange whose operator can notify a responsible individual.

An auxiliary or emergency power source kept continuously in operating condition, sufficient to maintain required storage conditions, shall be available for blood bank use, or auxiliary storage facilities shall be available.

~~(d)~~ *4.* Adequate circulation of air in the blood storage area shall be assured. A fan shall be provided for this purpose.

~~(e)~~ *5.* Blood storage regulations relate not only to the blood bank itself, but also to all transfusion services or other places approved by the board where whole blood from the blood banks is stored prior to transfusion. No blood bank shall deliver whole blood to a transfusion service which does not meet this storage requirement. Blood removed from the ~~storage facilities~~ *refrigerator* of the transfusion service for more than 30 minutes shall not be used for transfusion purposes.

~~(f)~~ *6.* Whole blood for transfusion shall not be stored more than ~~21 days~~ *the limits of the anticoagulant used i.e., ACD or CPD - 21 days, CPDA-1 - 35 days, Heparin - 48 hours* . Storage temperature during this period shall be within a 2 degree range between 1°C

and 6°C.

~~6.3.14~~ *N.* Transportation.

In order to meet the requirements for safety, purity and potency as defined by the regulations, whole blood shall be stored continuously between 1°C and 6°C within a range of 2°C. While in transportation from one storage point to another, ~~the temperature shall remain between 1 and 10C. Containers for transportation of blood shall have been proven capable of maintaining this temperature in order to fulfill the requirement for recorded evidence that blood has remained between 1 and 10C during transportation~~ *the temporary storage shall have sufficient refrigeration capacity to cool the blood continuously toward the range between 1°C and 6°C until it arrives at the processing laboratory* .

§ ~~6.4.~~ *§ 6.3.* Testing the blood.

All laboratory tests shall be made on a pilot sample ~~specimen~~ of blood taken from the donor at the time of collecting the unit of blood, and these tests shall include the following:

~~6.4.1~~ *A.* Serological test for syphilis.

Whole Blood (Human) shall be nonreactive to a serological test for syphilis. The test and procedures used shall be any test ~~listed in the Public Health Service Publication #411 (1969) Manual of Tests for Syphilis~~ *given standard test status by the Centers for Disease Control, U.S. Department of Health and Human Services* .

~~6.4.2~~ *B.* Determination of blood group.

Each container of Whole Blood (Human) shall be classified as to ABO blood group on basis of tests performed on pilot tube or segment. At least two blood group tests shall be made and the unit shall not be issued until grouping tests by different methods or with different lots of antiserums are in agreement. Only those Anti-A and Anti-B Blood Grouping Serums licensed by the FDA shall be used and shall be that for which the serum is specifically designed to be effective.

~~6.4.3~~ *C.* Determination of Rh factor.

Each container of Whole Blood (Human) shall be classified as to Rh type on the basis of tests done on the pilot sample. The label shall indicate the extent of typing and the results of all tests performed. If the test, using Anti-Rho (Anti-D) Typing Serum, is positive, the container may be labeled "Rh Positive." If this test is negative, the results shall be confirmed by further testing which may include tests for the Rho variant (Du) and for other Rh-Hr factors. Blood may be labeled "Rh Negative" if negative to tests for the Rho(D) and Rho variant (Du) factors. If the test using Anti-Rho (Anti-D) Typing Serum is negative, but not tested for the Rho variant (Du), the label shall indicate that this test was not done. Only Anti-Rh Typing Serums licensed by the FDA shall be used, and the technique used shall be that for which the serum is specifically designed to be effective.

~~6.4.4~~ *D.* Tests for viral hepatitis.

Each donor's serum shall be tested by a technique for the detection of hepatitis B surface antigen. The method of detection shall be of a third generation rate of sensitivity.

~~6.4.5~~ *E.* Sterility test.

Whole Blood (Human) intended for transfusion shall not be tested for sterility by a method that entails entering the final container before the blood is used for transfusion.

~~6.4.6~~ *F.* Inspection.

Whole Blood (Human) shall be inspected visually during storage and immediately prior to issue. If the color or physical appearance is abnormal or there is any indication or suspicion of microbial contamination, the unit of Whole Blood (Human) shall not be issued for transfusion.

G. Test for HIV antibody.

Each donation of human blood or blood components shall be tested for HIV antibody to comply with Food and Drug Administration, HHS regulations as specified in Subpart E, paragraph 610.45 - Human Immunodeficiency Virus (HIV) requirements 21CFR Ch. 1 (4-1-88 Edition).

§ ~~6.5.~~ *§ 6.4.* Periodic check on sterile technique.

If blood is collected in a closed system, no sterility test is necessary. If blood is not collected in a closed system, those blood banks drawing at least 250 pints of blood a year shall check their sterile technique. At least two units of blood shall be collected in double bags each month. 25 ml of this blood shall be transferred to the empty satellite bag, which will be stored in the refrigerators of the commercial blood bank for 18 to 24 days. At that time, the specimen shall be tested for sterility. The test shall be performed with a total sample of no less than 10 ml of blood and a total volume of fluid thioglycollate or thioglycollate broth medium 10 times the volume of the sample of blood. The test sample shall be inoculated into one or more test vessels in a ratio of blood to medium of 1 to 10 for each vessel, mixed thoroughly, incubated for seven to nine days at a temperature of 30°C to 32°C, and examined for evidence of growth of microorganisms every workday throughout the test period. On the third, fourth, or fifth day at least 1 ml of material from each test vessel shall be subcultured in additional test vessels containing the same culture medium and in such proportion as will permit significant visual inspection, mixed thoroughly, incubated for seven days at a temperature of 30°C *to* 32°C and examined for evidence of microorganisms every workday throughout the test period. If growth is observed in any test vessel, the test

shall be repeated to rule out faulty test procedure, using another sample of blood from either, ~~(1)~~ *(i)* the container from which the initial test sample was taken, ~~(2)~~ *(ii)* the residual cells or plasma from that blood, or ~~(3)~~ *(iii)* two different containers of blood each 18 to 24 days old and each tested separately. In lieu of performing one test using an incubation temperature of 30°C to 32°C, two tests may be performed, each in all respects as prescribed in this ~~paragraph~~ *section* , one at an incubation temperature of 18°C to 22°C. and one at an incubation temperature of 35°C to 37°C.

§ ~~6.6.~~ *§ 6.5.* Final container.

The blood shall be stored in the original bleeding container, or other containers attached to it by a closed system in which transfer of the blood can be accomplished without breaking the hermetic seal, and shall not be entered prior to issue for any purpose except for blood collection. Such container shall be uncolored and transparent to permit visual inspection of the contents and any closure shall be such as will maintain a hermetic seal and prevent contamination of the contents. The container material shall not interact with the contents under the customary conditions of storage and use, in such a manner as to have an adverse effect upon the safety, purity, or potency of the blood.

The label shall not bear the name or any other identification of the intended recipient.

§ ~~6.7.~~ *§ 6.6.* Labeling.

In addition to all other applicable requirements, the following shall appear on the label of each container:

~~6.7.1~~ *1.* Anticoagulant.

(a) Name. The name of the anticoagulant immediately preceding and of no less prominence than the proper name, expressed as follows:

(1) Either "ACD" or "acid citrate dextrose solution,"

(2) Either "Heparinized" or "heparin solution,"

(3) Either "CPD" or "citrate phosphate dextrose solution,"

(4) Either "CPDA-1" or "Citrate phosphate dextrose adenine-1."

(b) Quantity. The quantity and kind of anticoagulant used and the volume of blood corresponding with the formula anticoagulant solutions prescribed under ~~paragraph 6.3.4~~ *§ 6.2 D* .

~~6.7.2~~ *2.* Test for HB ~~sAg~~ *Hepatitis* . Method of detection and result.

~~6.7.3~~ *3.* Serological test. The serological test for syphilis used and the result.

~~6.7.4~~ *4.* Blood group and Rho (D) type. Designation of blood group and Rh factors:

(a) The ABO blood group and the Rho type shall be designated conspicuously.

(b) If a color scheme for differentiating the ABO blood groups is used, the color used to designate each blood group on the container shall be:

Blood Group A - Yellow

Blood Group B - Pink

Blood Group O - Blue

Blood Group AB - White

~~6.7.5~~ *5.* Additional Information for Labels of Group O Bloods.

Each Group O blood *container* shall be labeled with a statement indicating whether or not isoagglutinin titers or other tests to exclude so-called "dangerous" Group O bloods were performed, and indicating the classification based on such tests.

~~6.7.6~~ *6.* The name of the blood bank.

~~6.7.7~~ *7.* Name of product or component.

~~6.7.8~~ *8.* Required storage temperature.

~~6.7.9~~ *9.* Donor serial number.

~~6.7.10~~ *10.* Expiration date.

~~6.7.11~~ *11.* The following statements:

(a) Crossmatch before using.

(b) Do not vent.

(c) Do not add medication.

(d) Mix thoroughly before use.

(e) Administer through filter.

(f) Properly identify intended recipient.

(g) See circular of information for further guidelines.

(h) Warning - The risk of hepatitis *and HIV infection* is present. Careful donor selection and available laboratory tests do not eliminate ~~this hazard~~ *these hazards* .

(i) Caution - Federal law prohibits dispensing without prescription.

12. Commonality labels may be substituted where appropriate.

13. Test for HIV Infection - Method of detection and result.

~~Section 7.0~~

PART VII.
PLASMAPHERESIS.

As defined ~~in 2.11~~ *in § 1.1,* plasmapheresis shall be performed by the method of single unit plasmapheresis or double unit plasmapheresis.

§ 7.1. Selection of donor.

In general, the standards stated in ~~paragraphs 6.2.2, 6.2.3~~ *§§ 6.1 B, 6.1 C* (except ~~h7~~ *subdivision 8 c*) which apply to whole blood shall apply to the selection and care of the donor. Whenever the components are not intended for transfusion or for the preparation of blood derivatives for transfusion, the criteria for donor selection may be limited to those designed for the safety of the donor ~~paragraphs 6.2.1, 6.2.2~~ *in §§ 6.1 A, 6.1 B* (except *subdivisions* 3 and 5), and ~~6.2.3 6.2.C a-e, 1-5 k-m~~ *6.1 C, subdivisions 1-5 and 10-12* . In such instances, the plasma unit must be labeled prominently and appropriately "NOT FOR TRANSFUSION." Plasmapheresis of donors who do not meet the usual requirements shall be performed only when the components are of unusual value and only when a licensed physician who is aware of the health status of the donor has certified in writing that the donor's health permits plasmapheresis.

~~7.1.1~~ *A.* Before a donor enters a plasmapheresis program, he shall undergo a physical examination, no earlier than one week prior to the first donation, by a physician licensed to practice medicine in Virginia, who shall be aware of the extent of the proposed procedures. The examination shall be adequate to assure that the prospective donor's health is unlikely to be adversely affected by these procedures. The initial medical examination shall include as a minimum:

~~(a)~~ *1.* Determination of blood pressure;

~~(b)~~ *2.* Ausculation of heart and lungs;

~~(c)~~ *3.* Abdominal palpation for hepatomegaly, splenomegaly or masses;

~~(d)~~ *4.* Brief neurological examination;

~~(e)~~ *5.* Urinalysis.

~~7.1.2~~ *B.* Informed consent for general plasmapheresis.

The informed consent of a prospective donor should be obtained in writing. The hazards of the plasmapheresis procedure should be explained to the donor clearly so that he is fully aware of the role expected of him and the time involved and in such a manner that he is offered an opportunity to refuse consent. A form developed for this purpose by the blood bank should be used specifically setting forth the following:

~~(a)~~ *1.* The test to be performed.

~~(b)~~ *2.* A step by step description of the procedure.

~~(c)~~ *3.* The time limits between donations as defined by these regulations.

~~(d)~~ *4.* The maximum volume of blood to be drawn at one time.

~~(e)~~ *5.* Donor discomforts such as ~~(1)~~ *(i)* being immobilized for 1-1/2 to 2 hours; ~~(2)~~ *(ii)* having a needle in the vein during this time; ~~(3)~~ *(iii)* possible syncope, fainting, or convulsions.

~~(f)~~ *6.* Risks, including ~~(1)~~ *(i)* the possibility of a hemolytic transfusion reaction if he is given someone else's red cells, ~~(2)~~ *(ii)* depletion of protein, hemoglobin or immunoglobulin levels, which may necessitate deferment or removal from the program, ~~(3)~~ *(iii)* possibility that it may not be possible to return the red cells to the donor.

~~(g)~~ *7.* A statement that the donor has been given the opportunity to ask questions about any phase and has had the opportunity to refuse.

~~(h)~~ *8.* An instruction that the donor is free to withdraw his consent and to discontinue participation in the plasmapheresis program at any time. The form shall be signed by the donor, and by the examining physician, dated, and made part of the records.

~~7.1.3~~ *C.* Informed Consent for Plasmapheresis with Immunizing Injections.

~~(a)~~ *1.* In the event that immunizing injections are to be given as part of the overall procedure, the licensed physician should include a description of the antigens to be used, the approximate duration of the immunization program and the maximum number of injections expected. Factors determining when the injections are to be made should be discussed with the donor.

~~(b)~~ *2.* If the immunizing agent is a human blood product, additional risks as listed will be explained to the donor depending on their applicability. These hazards are:

~~(1)~~ *a.* H~~epatitis,~~ *epatitides or Human Immunodeficiency Virus Infection* .

~~(b)~~ *b.* Possible difficulty in finding a compatible blood if the donor should need a transfusion at a later date.

~~(3)~~ *c.* Possible immunological problems that might complicate pregnancy.

~~(4)~~ *d.* Increased risk of rejection of an organ transplant if the donor should be a candidate for a transplant at a later date.

An informed consent form acceptable to the board indicating the above items have been discussed with the prospective donor must be used.

~~7.1.4~~ *D.* The examining physician shall certify to the good health of the donor on a form developed for this purpose by the blood bank. This form shall indicate that the certification is with respect to the suitability of the individual to be a plasmapheresis donor.

~~7.1.5~~ *E.* After the initial medical examination, technical personnel experienced in determining donor suitability may be authorized to decide the acceptability of the donor by means of a medical history, a brief physical examination including blood pressure, pulse rate, and temperature, and laboratory tests including hemoglobin or hematocrit, serum protein level, a test for HBsAg, ~~and~~ a test for syphilis , *and a test for HIV antibodies* .

~~7.1.6~~ *F.* Weight of donor shall be determined and recorded for each day of donation.

~~7.1.7~~ *G.* The removal of blood (method of collection) from the donor shall be in accordance with these Regulations.

~~7.1.8~~ *H.* Prior to phlebotomy, the blood container shall be provided with two methods of identification that will enable both the donor and the phlebotomist to determine without doubt that the contents are those of the donor. The use of a numerical system combined with donor's recognition of his signature on the bag is one acceptable method. The addition of a photograph for further identification is encouraged.

~~7.1.9~~ *I.* A total serum protein determination shall be made immediately prior to each plasmapheresis procedure. To be acceptable, the donor's total serum protein shall be not less than 6.0 grams per 100 milliliters serum. Quality control records of the total protein determinations shall be maintained.

~~7.1.10~~ *J.* A serum protein electrophoresis or quantitative immunodiffusion test for immunoglobulins shall be performed on every donor at the time of the first donation, and every four months thereafter. ~~Based on this first test, a normal range shall be established for each donor by the laboratory. Whenever the immunoglobulin composition of a donor falls below or rises above this normal range, the donor shall be removed from the plasmapheresis program until such time as the immunoglobulin composition returns to the normal range.~~

~~7.1.11~~ *K.* Physical status of the donor and accumulated laboratory data, ~~shall be reviewed by a licensed physician at least once every 2-4 months after the initial donation. Only those donors certified to be in good health upon such review shall remain in the plasmapheresis program. Plasmapheresis program should be deferred if there is evidence of unexpected weight loss of a significant degree, if the hemoglobin and or hematocrit falls below the values acceptable for whole blood donors, or if the total protein falls below 6.0 gms. or significantly below the normal value established for the donor at time of his initial visit to the Center~~ *including tracings, if any, of the plasma or serum protein electrophoresis pattern, the calculated values of each component, and the collection records shall be reviewed by a qualified licensed physician within 21 days after the sample is drawn to determine whether or not the donor may continue in the program. The review shall be signed by the reviewing physician. If the protein composition is not within normal limits established by the testing laboratory, or if the total protein is less than 6.0 grams per 100 milliliters of samples, the donor shall be removed from the program until these values return to normal.*

A donor with a reactive serological test for syphilis shall not be plasmapheresed again until the donor's serum is tested and found to be nonreactive to a serological test for syphilis or is determined to be a biological false positive reaction. A donor with a reactive serological test for syphilis may be plasmapheresed only to obtain plasma to be used for further manufacturing into control serum for the serological test for syphilis, provided the physician performing the plasmapheresis approves the donation.

~~7.1.12~~ *L.* The system used for the collection of blood and the separation of the plasma shall provide for positive identification of all containers. It shall also result in a sterile final product, without contamination of the red blood cells to be returned to the donor.

~~7.1.13~~ *M.* The elapsed time from phlebotomy to return of the red cell mass should not exceed two hours.

~~7.1.14~~ *N.* Physiological saline used to keep the venipuncture site open ~~and/~~ or to resuspend red cells for reinfusion *or both* shall be sterile, pyrogen-free, and manufactured and licensed for intravenous administration. The physiological saline assembly may be prepared in advance, but used as soon as possible after entry of the container. In any event, no more than four hours may elapse between entry and usage.

The addition of saline ~~meeting the requirements above~~ to the red cell mass prior to reinfusion to provide better flow is permitted.

~~7.1.15~~ *O.* All available erythrocytes from the phlebotomy should be returned to the donor within two hours.

Erythrocyte loss, including blood for test purposes, should not exceed 25 ml, per week during serial plasmapheresis.

~~7.1.16~~ *P.* The amount of whole blood removed from a donor at any one time shall not exceed 500 ml unless the donor weighs more than 175 lbs., in which case 600 ml of whole blood may be withdrawn. Each unit shall be weighed and records kept to provide assurance that this amount is not being exceeded.

~~7.1.17~~ *Q.* During any one session, or during any 48-hour period, not more than 1000 ml of whole blood shall be collected from any donor, unless the donor weighs more than 175 lbs., in which case 1200 ml of whole blood may be withdrawn.

~~7.1.18~~ *R.* During any seven-day period, not more than 2000 ml of whole blood shall be removed from any one donor, unless the donor weighs more than 175 lbs., in which case 2400 ml of whole blood may be withdrawn.

~~7.1.19~~ *S.* In the event that a unit of red cells cannot be returned to the donor, a second unit must NOT be withdrawn. The donor shall be suspended from the program until the hemoglobin or hematocrit and total serum protein levels return to normal. At no time shall this suspension period be shorter than 72 hours. In the event a second unit of red cells could not be returned within eight weeks of resumption of plasmapheresis, the donor shall be suspended for eight weeks, provided the hemoglobin or hematocrit and total serum protein levels have returned to normal.

§ 7.2. Containers and anticoagulants.

~~7.2.1~~ *A.* Containers and anticoagulants shall meet the ~~Regulations for collection of Whole Blood (Human), paragraph section 6.3~~ *provisions of § 6.2, Collection of Blood* .

~~7.2.2~~ *B.* The amount of anticoagulant shall be adequate for the volume of blood to be obtained. This is:

Whole blood in ml	450	500	600
ml of ACD	67.5	75.0	90.0
ml of CPD	63.0	70.0	84.0
ml of trisodium citrate	45.0	50.0	60.0
ml of CPDA-1	*63.0*	*Not Applicable*	

~~7.2.3~~ *C.* Written approval must be obtained from the board in event any other type of anticoagulant not mentioned in this regulation *or licensed by the FDA* is used.

§ 7.3. Care of the donor.

The plasmapheresis center should provide for adequate medical care to the blood donors who experience a donor reaction related to the blood donation. For this, a licensed physician well versed in the management and care of donor reactions including the management of hemolytic transfusion reactions must be available within 15 minutes. A hospital emergency facility may be used in lieu of the licensed physician, if it is located within 15 minutes of the plasmapheresis center. The staff of the plasmapheresis center should be fully trained in the recognition and prevention of all potential procedural hazards. They should be prepared to institute emergency first aid to the donor as soon as reaction is recognized, while ~~awainting~~ *awaiting* the center's physician or transfer of the donor to a hospital emergency room in the case of severe reactions.

Specific instructions concerning procedures to be followed for prevention and treatment of donor reactions, together with the necessary drugs, equipment and supplies should be readily available. Donors should be cautioned that, infrequently, delayed dizziness or syncope may be experienced.

§ 7.4. Labeling of donor plasma.

Every container of donor plasma shall have attached to it:

~~7.4.1~~ *1.* Name of product *;*

~~7.4.2~~ *2.* The amount of plasma, and the type and amount of anticoagulants *;*

~~7.4.3~~ *3.* The number, and if desired, the name of the donor *;*

~~7.4.4~~ *4.* The storage temperature *;*

~~7.4.5~~ *5.* The result of the third generation test for HBsAg *;*

~~7.4.6~~ *6.* The results of the serological test for syphilis, if reactive *;*

~~7.4.7~~ *7.* The ABO and Rho (D) type, if determined *;*

~~7.4.8~~ *8.* The anti-A and anti-B titer, if known *;*

~~7.4.9~~ *9.* The name and address of the blood bank *; and*

10. The result of the test for HIV antibodies.

~~Section 8.0~~

PART VIII.
RED BLOOD CELLS (HUMAN).

§ ~~8.1. Proper name and definition.~~

~~The proper name of this product shall be Red Blood~~

~~Cells (Human). The product is defined as red blood cells remaining after separating plasma from human blood.~~

§ ~~8.2.~~ *§ 8.1.* Suitability of donor.

The source blood for Red Blood Cells (Human) shall be obtained from a donor who meets the criteria for donor suitability prescribed for donors of whole blood, as described in § ~~6.2~~ *§ 6.1* .

§ ~~8.3.~~ *§ 8.2.* Collection of blood.

~~(a)~~ *A.* The source of blood shall be whole blood collected as prescribed for whole blood except that heparinized blood shall not be used as a source of red blood cells.

~~(b)~~ *B.* Source blood may also be derived from Whole Blood (Human) manufactured in accordance with applicable provisions of this part.

§ ~~8.4.~~ *§ 8.3.* Laboratory tests.

A sample of source blood shall be taken from the donor at the time of collection and it shall be used for a serological test for syphilis, for hepatitis *B* surface antigen (HBsAg) *for HIV antibodies,* and for tests to determine blood group and Rh factors, as prescribed in § ~~6.4~~ *§ 6.3* , Testing the Blood.

§ ~~8.5.~~ *§ 8.4.* Pilot samples.

Pilot samples collected in integral tubing or in separate pilot tubes shall meet the following criteria:

~~(a)~~ *1.* One or more pilot samples of the original blood being processed shall be provided with each unit of Red Blood Cells (Human).

~~(b)~~ *2.* Before they are filled, all pilot samples shall be marked or identified so as to relate them to the donor of that unit of red cells.

~~(c)~~ *3.* Before the final container is filled, the pilot samples to accompany the unit of cells shall be attached securely to the final container in a tamper proof manner that will conspicuously indicate removal and reattachment.

~~(d)~~ *4.* All pilot samples accompanying a unit of Red Blood Cells (Human) shall be filled at the time the blood is collected and in each instance by the person who performs the collection.

§ ~~8.6.~~ *§ 8.5.* Processing.

~~8.6.1~~ *A.* Separation.

Red Blood Cells (Human) may be prepared either by centrifugation done in a manner that will not tend to increase the temperature of the blood, and no later than six days after the date of blood collection or by normal, undisturbed sedimentation no later than 21 days after the date of blood collection. A portion of the plasma sufficient to assure optimal cell preservation shall be left with the red cells except when a cryophylactic substance is added for prolonged storage.

~~8.6.2~~ *B.* Sterile system.

All surfaces that come in contact with the red cells shall be sterile and pyrogen-free. If an open system is used, that is, where the transfer container is not integrally attached to the blood container, and the blood container is entered after blood collection, the plasma shall be separated from the red blood cells with positive pressure maintained on the original container until completely sealed. If the method of separation involves a vented system, that is, when an airway must be inserted in the container for withdrawal of the plasma, the airway and vent shall be sterile and constructed so as to exclude microorganisms and maintain a sterile system.

~~8.6.3~~ *C.* Final containers.

Final containers used for Red Blood Cells (Human) shall be the original blood containers unless the method of processing requires a different container. The final container shall meet the requirements for blood containers prescribed for whole blood. At the time of filling, if a different container is used, it shall be marked or identified by number or other symbol so as to relate it to the donor of that unit of red cells.

§ ~~8.7. Check on sterile technique.~~

~~If Red Blood Cells (Human) are prepared in a vented or open system, a check on sterile technique shall be made each month by performing a test 20-28 hours after the preparation of at least one container of Red Blood Cells (Human), by the method prescribed in 6.5, "periodic check on sterile technique."~~

§ ~~8.8.~~ *§ 8.6.* Storage.

Immediately after processing, the Red Blood Cells (Human) shall be placed in storage and maintained within a 2°C range between 1°C and 6°C.

§ ~~8.9.~~ *§ 8.7.* Inspection.

The product shall be inspected immediately after separation of the plasma, periodically during storage, and at the time of issue. The product shall not be issued if there is any abnormality in color or physical appearance or if there is any indication of microbial contamination.

§ ~~8.10.~~ *§ 8.8.* Expiration.

Red Blood Cells (Human) prepared in a vented or open system shall have an expiration time of 24 hours from the time of preparation, and shall be so labeled. ~~If~~ a ~~unit~~ is

~~vented twice, the expiration time shall be 6 hours from the time of second venting, but not more than 24 hours after the original preparation.~~

§ ~~8.11.~~ *§ 8.9.* Modifications for specific products.

Red Blood Cells (Human), Frozen: A cryophylactic substance may be added to the Red Blood Cells (Human) for extended manufacturer's storage at -65°C. or colder, provided the manufacturer submits data (at least 70% of the transfused cells will remain in the circulation 24 hours after transfusion) demonstrating through in vivo cell survival and other appropriate tests that the addition of the substance, the materials used and the processing methods result in a final product that meets the required standards of safety, purity, and potency for Red Blood Cells (Human), and that the product will maintain those properties for the prescribed dating period. *Sections* ~~8.8~~ *8.6,* Storage, and *8.7,* Inspection, do not apply while a cryophylactic substance is present.

§ ~~8.12.~~ *§ 8.10.* Labeling.

In addition to the items required by other applicable labeling provisions of this part, labels for Red Blood Cells (Human) shall bear the following:

~~(a)~~ *1.* The information required by ~~section 6.7 "Labeling", 6.7.2, 6.7.3, 6.7.4, 6.7.6, 6.7.7, 6.7.8, 6.7.9, 6.7.10, 6.7.11~~ *subdivisions 2, 3, 4, 6, 7, 8, 9, 10, 11 and 13 of § 6.6, Labeling,* for Whole Blood (Human), except the proper name.

~~(b)~~ *2.* Immediately following or immediately below and in no less prominence than the proper name, appropriate words describing each approved variation applicable to the product in the final container; for example, Red Blood Cells (Human), Frozen, and Red Blood Cells (Human), Deglycerolized.

~~(c)~~ *3.* Instruction to use a filter in the administration equipment.

~~(d)~~ *4.* Where source blood has been derived from Whole Blood (Human), such fact and the name, and address, of the establishment.

§ 8.11. Commonality labels may be substituted where appropriate.

~~Section 9.0~~

PART IX.
CRYOPRECIPITATED ANTIHEMOPHILIC FACTOR (HUMAN).

§ ~~9.1. Proper Name and Definition.~~

~~The proper name of this product shall be Cryoprecipitated Antihemophilic Factor (Human) which shall consist of a preparation containing the antihemophilic factor obtained from a single unit of human blood.~~

§ ~~9.2.~~ *§ 9.1.* Source.

Cryoprecipitated Antihemophilic Factor (Human) shall be prepared from human blood meeting the following criteria:

~~9.2.1~~ *1.* Suitability of the donor. Blood for Cryoprecipitated Antihemophilic Factor (Human) shall be obtained only from a donor who meets the criteria for suitability prescribed for whole blood.

~~9.2.2~~ *2.* Collection of the blood. Blood for Cryoprecipitated Antihemophilic Factor (Human) shall be collected either as prescribed for whole blood donors ~~(Section 6.3.~~ *§ 6.2)* or for plasmapheresis donors (§ 7.1).

~~9.2.3~~ *3.* Testing the blood. Blood for Cryoprecipitated Antihemophilic Factor (Human) shall be tested as prescribed for whole blood (§ ~~6.4~~ *6.3*).

§ ~~9.3~~ *§ 9.2.* Processing.

~~9.3.1~~ *A.* Separation of plasma.

The plasma shall be separated from the red blood cells in a closed sterile system ~~within 4 hours after collection~~ by centrifugation to obtain an essentially cell-free material.

~~9.3.2~~ *B.* Freezing the plasma.

The plasma shall be frozen within ~~2~~ *six* hours after ~~separation~~ *phlebotomy* . A combination of dry ice and organic solvent may be used for freezing ~~providing~~ *provided* the procedure has been shown not to cause the solvent to penetrate the container or leach plasticizers from the container into the frozen plasma.

~~9.3.3~~ *C.* Separation of Cryoprecipitated Antihemophilic Factor (Human).

The Cryoprecipitated Antihemophilic Factor (Human) shall be separated from the plasma in a closed system by a procedure that precludes contamination and has been shown to produce a product which has demonstrated potency in patients having a factor VIII deficiency.

~~9.3.4~~ *D.* Final container.

Final containers used for Cryoprecipitated Antihemophilic Factor (Human) shall be uncolored and transparent to permit visual inspection of the contents and any closure shall be such as will maintain a hermetic seal and prevent contamination of the contents. The container material shall not interact with the contents under the customary conditions of storage and use, in such a manner as to have an adverse effect upon the safety, purity, and potency of the product. At the time of filling, the final container shall be marked or identified by number or other symbol so as to relate it to the donor.

§ ~~9.4.~~ *§ 9.3.* General requirements.

~~9.4.1~~ *A.* Diluent.

No diluent shall be added to the product by the ~~manufacturer~~ *blood bank* .

~~9.4.2~~ *B.* Storage.

Immediately after processing, the product shall be placed in storage at subfreezing temperatures. ~~If maintained constantly at 30°C or lower, component may be store for up to 12 months.~~ When stored ~~between~~ *at* -18°C ~~and 30C~~ *or colder* , storage is limited to ~~six~~ *12* months.

~~9.4.3~~ *C.* Labeling.

In addition to the items required by other provisions of this ~~part~~ *section* , the package label shall bear the following:

~~(a)~~ *1.* Designation of blood group and type of the source blood.

~~(b)~~ *2.* A warning against using the product if there is evidence of thawing during storage.

~~(c)~~ *3.* Instructions to thaw Cryoprecipitated Antihemophilic Factor (Human) in a water bath maintained at not warmer than 37°C.

~~(d)~~ *4.* Instructions to store the product at room temperature after thawing, to use the product within six hours after thawing and within two hours of entering the container.

~~(e)~~ *5.* Instructions to use a filter in the administration equipment.

~~(f)~~ *6.* A statement indicating the volume of the source plasma and the type of anticoagulant solution present in the source plasma from which the product was prepared.

~~Section 10.0~~

PART X.
REPORTING STATISTICAL DATA.

§ 10.1. General.

Every commercial blood bank in the state shall submit a statistical report to the commissioner by February 1 of each year at the address indicated in ~~1.3.3~~ *§ 2.3 C* of these regulations. The report shall be on the form shown in the appendix and shall require the information listed below:

~~10.1.1~~ *1.* Number of whole blood units collected. ~~Number converted to PRC & plasma~~

~~10.1.2~~ *2.* Number of units of plasma collected ~~by~~ *and methods of collection* .

~~(a) double plasmapheresis~~

~~(b) single plasmapheresis~~

~~10.1.3~~ *3.* Number of platelets collected ~~by~~ *and methods of collection.*

~~(a) double plateletpheresis~~

~~(b) single plateletpheresis~~

~~10.1.4 Number of combination plasma plateletpheresis done by:~~

~~(a) double plasma plateletpheresis~~

~~(b) single plasma plateletpheresis~~

~~10.1.5 Number of bank plasma prepared from outdated blood~~

~~10.1.6~~ *4.* Number of other blood components prepared (specify).

~~10.1.7~~ *5.* Number of donor reactions (classified according to type of reaction).

~~10.1.8~~ *6.* Number of donor rejections (classified on basis of cause of rejection).

~~10.1.9~~ *7.* Number of donors involved in transmission of disease:

~~(a)~~ *a.* Hepatitis,

~~(b)~~ *b.* Malaria,

~~(c)~~ *c.* Syphilis,

~~(d)~~ *d.* Others.

~~10.1.10~~ *8.* Name, address and telephone number of individuals found to be:

~~(a)~~ *a.* Positive for syphilis.

~~(b)~~ *b.* Positive for HBsAg,

~~(c)~~ *c.* Involved (individually or as one of a number of blood donors) in transmission of disease.

COMMONWEALTH OF VIRGINIA

STATE HEALTH DEPARTMENT

APPLICATION FOR LICENSURE OF COMMERCIAL BLOOD BANKS

Name of Blood Bank _____

Address _____ Telephone No. _____

City _____ County _____ Zip Code _____

Name of Director _____ Degree(s) _____

Specialty _____

Name of Technical Supervisor _____ Degree(s) _____

Specialty and/or _____

	Number of Full-time	Number of Part-time	Registry if Any
Technical Personnel:			
Laboratory Technologist	_____	_____	_____
Laboratory Technicians	_____	_____	_____
Others (Specify)	_____	_____	_____

Is this Blood Bank a member of any national professional organization?

Yes ___ No ___ If yes, name of organization(s) _____

_____

Is this Bank licensed by Federal Government? Yes ___ No ___ If yes, give:

Agency _____ License No. _____

Date Bank was founded _____

Name of founder _____

Incorporated _____ State _____ Profit _____ Non-Profit _____

Blood components collected: Check applicable items.

Whole Blood ___ Fresh or frozen Plasma ___ Packed red cells ___

Cryoprecipitate ___ Others (Specify) _____

Workload during previous year from month/year _____ to month/year _____

1. Number of whole blood units drawn _____
2. Number of plasmapheresis: Single _____ Double _____
3. Number of cryoprecipitates prepared _____
4. Others (Specify) _____

DONOR SELECTION & COLLECTION: (Separate sheets and enclosures may by used)

1. Attach a copy of the donor history card and other forms, labels, and record sheets used in this blood bank.
2. Who interviews donor? Where and what kind of training have the interviewers had?
3. Who bleeds donors? Where and what king of training have they had for bleeding donors?
4. (A) Is a licensed physician present during donor selection or collection? Yes ___ No ___

   (B) If "No", is a physician available for consultation? Yes ___ No ___
5. When a physician is not present, is the technical supervisor in charge always available? Yes ___ No ___
6. Are questionable medical data referred to a physician? Yes ___ No ___
7. Is a manual or procedure outlining donor requirements easily available to personnel? Yes ___ No ___ (enclose a copy)
8. Does the area where donor interviews are conducted insure privacy? Yes ___ No ___

   Describe the area.

9. Is donor interviewed and medical history taken each day of donation?
Yes ____ No ____

10. Does the interviewer review the history card of the donors as well as questioning him/her carefully regarding:

YES	NO		
____	____	a.	age
____	____	b.	interval between donations of whole blood and plasmapheresis
____	____	c.	upper respiratory infections, brucellosis, Tuberculosis, Syphilis, Infectious mononucleous
		d.	dental surgery within 72 hours
____	____	e.	if female, pregnancy within six months
____	____	f.	chronic disease of lung, heart, liver, kidneys
____	____	g.	convulsions after infancy
____	____	h.	Receipt of a transfusion or IM injection of blood or blood component within six months
		i.	history of cancer
____	____	j.	skin diseases
____	____	k.	abnormal bleeding tendencies
____	____	l.	(1) history of viral hepatitis or a positive test for **HB_sAg test**
____	____		(2) possible intimate contact with the disease within six months
____	____		(3) tattoos within last six months
____	____	m.	(1) history of malaria
____	____		(2) immigrant or visitor from an area endemic for malaria
____	____		(3) travel in areas endemic for malaria within six months
____	____		(4) antimalarial therapy within three years
____	____		**(5) positive HIV test or risk factors for AIDS**
____	____	n.	(1) immunization with blood group antigens
____	____		(2) bacterial vaccines
____	____	o.	seasonal, food or drug allergies
____	____	p.	currently taking or receiving medication
____	____	q.	currently under a physicians care
____	____	r.	diabetes
____	____	s.	major surgery within last six months
____	____	t.	unexplained weight loss

11. Is the donor's general appearance observed carefully for any abnormal color for evidence of narcotic addiction, alcoholic habitation for intoxication?

Yes ____ No ____

12. State your acceptable limits for the following: (indicate maximum, minimum or range)

a. oral temperature _____
b. hemoglobin (minimum) Male _____ Female _____
c. pulse _____ Are irregularities referred to a physicians?
Yes ____ No ____
d. Blood pressure: systolic _____
diastolic _____
Are abnormalities referred to a physician? Yes ____ No ____
e. Weight _____ lbs. (minimum)

f. (1) Are values for each of the above determined on each day of donation?
Yes ____ No ____
(2) Are these part of the donor record? Yes ____ No ____

13. Do the donor records include: (Yes or No)

a. release by the donor ____
b. signature of witness ____
c. date of donation ____

14. Attach a copy of your complete and detailed step by step procedure followed in preparation of area for phlebotomy.

15. Describe the blood collection sets used and the method of identification of donor blood.

16. Attach a copy of your procedure for:
a. ABO grouping & subgrouping
b. Rho typing
c. HAA testing **HB_sAG**
d. Testing for syphilis
e. HIV antibody testing

17. a. Are reagents purchased commercially or locally prepared? _____
b. If any of the reagent(s) is locally prepared, attach a detailed description of the preparation method(s) used.

18. Is group O blood screened for anti-A and anti-b agglutinins and/or lysins?
Yes ____ No ____

19. If a discrepancy occurs between ABO cell grouping and serum grouping, is the unit of blood dispensed for transfusions? Yes ____ No ____

COMMONWEALTH OF VIRGINIA

STATE HEALTH DEPARTMENT

APPLICATION FOR RENEWAL OF LICENSURE OF COMMERCIAL BLOOD BANKS

Date of Application _____

Name of Blood Bank _____

Address _____ Telephone No. _____

City _____ County _____ Zip Code _____

Name of Director _____ Degree(s) _____

Specialty _____

Name of Consultant Physician _____ Degree(s) _____

Specialty _____

Name of Technical Supervisor _____ Degree(s) _____

Specialty/Major _____

	Number of Full-time	Number of Part-time	Registry if Any
Technical Personnel:			
Laboratory Technologist	_____	_____	_____
Laboratory Technicians	_____	_____	_____
Others (Specify)	_____	_____	_____

Is this blood bank incorporated?

_____ State _____ Profit _____ NonProfit

Is this bank licensed by the Federal Government? ____ Yes ____ No if yes, give:

Agency _____

License No. _____

Date of last license by Virginia _____

Blood or blood products authorized to collect, prepare, and/or store:

Whole Blood _____ Fresh or Frozen Plasma _____

Packed Red Cells _____ Cryoprecipitate _____

Other (Specify) _____

HAVE CHANGES BEEN MADE IN ANY OF THE FOLLOWING SINCE THE LAST INSPECTION?

Physical Facility (Specify)

Donor Identification and Suitability (Specify)

Collection Procedure (Specify)

Testing of Blood (Specify)

Processing of Blood or Blood Products (Specify)

DIVISION OF CONSOLIDATED LABORATORY SERVICES

PERSONNEL PROFILE

Professional - Managerial

IDENTIFICATION

Name _____ Date _____

Social Security Number _____ Date Employed _____

Classification _____

EDUCATION

Highest Degree Received _____ Year of High School Graduation _____

COLLEGES ATTENDED:

(1) Name of College _____

Location _____

Attended from _____ (Month) _____ (Year) to _____ (Month) _____ (Year)

Major _____ Degree _____ Date _____

(2) Name of College _____

Location _____

Attended from _____ (Month) _____ (Year) to _____ (Month) _____ (Year)

Major _____ Degree _____ Date _____

GRADUATE OR PROFESSIONAL:

(3) Name of School _____

Location _____

Attended from _____ (Month) _____ (Year) to _____ (Month) _____ (Year)

Major _____ Degree _____

Dissertation Research Topic _____

_____

Quality Control (Specify)

Personnel (Specify)

DATE: _____ SIGNATURE OF DIRECTOR: _____

Return this application for renewal with a check for $200 payable to Treasurer of Virginia to:

Director
Division of Consolidated Laboratory Services
1 North 14th Street
Richmond, Virginia 23219

(3) Name of school _____

Location _____

Attended from _____ (Month) _____ (Year) to _____ (Month) _____ (Year)

Major _____ Degree _____

Dissertation Research Topic _____

_____

OTHER SCHOOLING

OTHER COURSES, SEMINAR, SPECIAL BRANCH TRAINING, SPECIAL QUALIFICATION:

Name and Location	Year	Length of Course Wks . Mos . Yrs	Subject	Type of Training

CERTIFICATES - LICENSES

Are you certified or registered by an American Board, Academy or Society?

Yes _____ No _____

Specify (1) _____

(2) _____

(3) _____

Other Certifications or Licenses:	Authorizing Authority:	Year Obtained:
(1)		
(2)		
(3)		

EXPERIENCE List all experience in order, starting with your present or most recent position and working back.

JOB EXPERIENCE: Give (1) organization (2) dates (3) type of work (4) specialization, if any, and (5) special equipment capability, if any. Use more than one unit for different assignments within same organization.

DATES _____ ORGANIZATION _____

DESCRIBE TYPE OF WORK: _____

_____

_____

_____

SPECIALIZATION, WITHIN SECTION, IF ANY: _____

_____

_____

SPECIAL EQUIPMENT CAPABILITY, IF ANY: _____

_____

******

DATES _____ ORGANIZATION _____

DESCRIBE TYPE OF WORK: _____

SPECIALIZATION, WITHIN SECTION, IF ANY: _____

SPECIAL EQUIPMENT CAPABILITY, IF ANY: _____

******

DATES _____ ORGANIZATION _____

DESCRIBE TYPE OF WORK: _____

SPECIALIZATION, WITHIN SECTION, IF ANY: _____

SPECIAL EQUIPMENT CAPABILITY, IF ANY: _____

******

VIRGINIA STATE HEALTH DEPARTMENT

REGULATIONS FOR THE LICENSURE OF BLOOD BANKS IN VIRGINIA

VITAL STATISTICS

	Number
1. Number of whole blood units collected ~~a.--No. converted to PRC & plasma~~	_____
2. Number of units of plasma collected ~~by~~ and methods of collection ~~a)--double plasmapheresis~~ ~~b)--single plasmapheresis~~	_____
3. Number of platelets collected ~~by~~ and methods of collection ~~a)--double plateletpheresis~~ ~~b)--single plateletpheresis~~	_____
~~4.--a)--double plasma-plateletpheresis~~ ~~b)--single plasma-plateletpheresis~~	
~~5.--Number of bank plasma prepared from outdated blood~~	
~~6.~~ 4. Number of blood components prepared (specify): a) b)	_____ _____
~~7.~~ 5. Number of donor reactions (classified according to type of reaction): a) b) c)	_____ _____ _____
~~8.~~ 6. Number of donor rejections (classified on basis of cause of rejection): a) b) c) d)	_____ _____ _____ _____
~~9.~~ 7. Number of donors involved in transmission of disease: a) hepatitis b) malaria c) syphilis d) others	_____ _____ _____ _____
~~10.~~ 8. List name, address & telephone number of individuals found to be: a) positive for syphilis b) positive for HBsAg c) involved (individually or as one of a number of blood donors) in transmission of disease.	

Use blood bank stationary to supply this information.

* * * * * * * *

Title of Regulation: **VR 355-11-02.02. Regulations Governing Newborn Screening and Treatment Program.**

Statutory Authority: § 32.1-12 and Article 7 of Chapter 2 (§ 32.1-65 et seq.) of Title 32.1 of the Code of Virginia.

Public Hearing Date: December 7, 1989 - 2 p.m.
(See Calendar of Events section for additional information)

Summary:

The rules and regulations governing the newborn screening and treatment program have been revised and amended to include genetic, metabolic, and other diseases of the newborn. They specifically clarify the critical time periods for submitting newborn screening tests in an effort to more accurately screen and diagnose newborn diseases.

VR 355-11-02.02. Regulations Governing Newborn Screening and Treatment Program.

~~Section 2.00~~

PART I.
GENERAL.

~~§ 2.01. General As used in these regulations, the words and terms herein set forth have meaning s respectively set forth unless the context requires a different meaning.~~

§ 1.1. Definitions.

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

~~2.02. Definitions~~

"Abnormal result" means failure to meet normal screening parameters as set by the Division of Consolidated Laboratory Services.

~~2.02.01~~ *"Board"* means the State Board of Health.

~~2.02.02~~ *"Commissioner"* means the Commissioner of Health.

~~2.02.03~~ *"Department"* means the State Department of Health. ~~; and in the context of a provider of materials and servies to implement the Phenylketonuria screening program, shall also include the Division of Consolidated Laboratory Services,~~

"Divisions" means the Division of Maternal and Child Health and Division of Children's Specialty Services in the State Department of Health.

"Division of Consolidated Laboratory Services" means that Division in the State Department of General Services.

~~2.02.04~~ *"Director"* means the Director of the ~~Bureau~~ *Division* of Maternal and Child Health, State Department of Health.

~~2.02.05~~ *"Full-term infant"* means a live infant born more than 37 weeks gestation.

~~2.02.06~~ *"Local health director"* means the director of the health department of the county or city in which the infant and his parents reside.

~~2.02.07 "Phenylketenuria" means a quantitative phenylalanine level equal to or greater than 20 milligrams per deciliter of blood serum until ruled out by further study.~~

"Newborn screening" means those diseases that are specified by § 32.1-65 of the Code of Virginia.

"Newborn screening test" means the collection of capillary blood by heelstick or filter paper for diseases of newborn infants as specified in § 32.1-65 of the Code of Virginia.

~~2.02.08 "PKU" means phenylketonuria.~~

~~2.2.09~~ *"Premature infant"* means a live infant born after less then 37 weeks gestation.

~~2.02.10 "Screening Tests" means the Guthrie Inhibition Assay.~~

~~2.02.11~~ *"Treatment"* means *appropriate* medical *management including genetic counseling,* consultation, *pharmacologic* and dietary management *for all those newborn infants* ~~to support normal growth and development~~ *diagnosed with a disease as a result of the newborn screening program.*

~~Section 1.00~~

PART II.
GENERAL INFORMATION.

~~1.01~~ *§ 2.1.* Authority for regulations.

These regulations are authorized by § 32.1-12 and Article 7 of Chapter 2 *(§32.1-65 et seq.)* of Title 32.1 of the Code of Virginia ~~established~~ *which establishes* the authority of the Board of Health to make regulations relating to ~~the detection and control of phenylketenuria~~ *screening and treatment of genetic, metabolic and other diseases identifiable in the newborn period as specified in § 32.1-65 of the Code of Virginia.*

~~1.02~~ *§ 2.2.* Purpose of regulations.

The board has promulgated these regulations to establish

procedures and clarify the respective responsibilities of the department and physicians, nurses, midwives, and administrators of hospitals and other persons in this Commonwealth in the detection, control and treatment of ~~phenylketonuria~~ *those diseases specified in § 32.1-65 of the Code of Virginia.*

~~1.03~~ *§ 2.3.* Administration of regulations.

These regulations are administered by the following:

~~1.03.01~~ *A.* State Board of Health.

The Board of Health is the governing body of the State Department of Health which is obligated to provide for testing of all infants, except for those exempted from testing by law, for ~~phenylketonuria~~ *those diseases specified in § 32.1-65 of the Code of Virginia,* to recommend procedures for the treatment of those infants diagnosed as having ~~phenylketonuria~~ *a specified disease* , and provide treatment for infants in medically indigent families.

~~1.03.02~~ *B.* State Health Commissioner.

The State Health Commissioner is the chief executive officer of the State Department of Health. The commissioner has the authority to act, within the scope of the regulations promulgated by the board, for the board when it is not in session.

~~1.03.03~~ *C.* Director of the ~~Bureau~~ *Division* of Maternal and Child Health.

The Director of the ~~Bureau~~ *Division* of Maternal and Child Health, *with the Director of the Division of Children's Specialty Services,* subject to the supervision of the commissioner, shall administer the ~~phenylketonuria~~ detection, control and treatment program in the Commonwealth *for the diseases specified in § 32.1-65 of the Code of Virginia* .

~~1.04~~ *§ 2.4.* Application of regulations.

The regulations shall become effective ~~April 1, 1982~~ ( ) and shall have general application throughout the Commonwealth.

~~1.05~~ *§ 2.5.* Application of the Administrative Process Act.

The provisions of ~~Virginia~~ *the* Administrative Process Act, which is codified as Chapter 1.1:1 of Title 9 of the Code, shall govern the adoption, amendment, modification and revisions of the regulations, and the conduct of all proceedings hereunder. All hearings on such regulations shall be conducted in accordance with § ~~9-6.14:7~~ *§ 9-6.14:7.1* , unless the board shall, by written order, authorize the conduct of the hearing otherwise.

~~1.06 Severability.~~

~~If any provisions of these regulations or the application thereof to any person or circumstance is held to be invalid by a court of record of the Commonwealth, such invalidity shall not affect other provisions or applications of any other part of these regulsions which can be given effect without the invalid provisons or application, and to this end the provisions of these regulations and the various applications thereof are declared to be severable.~~

~~Section 3.00~~

PART III.
TESTING.

~~3.01~~ *§ 3.1.* General.

All newborn infants born in the Commonwealth shall be ~~subjected~~ *provided* ~~to a Phenylketonuria~~ *newborn* screening tests *as specified by the Code of Virginia in § 32.1-65 except that such test shall not be given to any infant whose parents or guardian objects in writing thereto on the grounds that such a test conflicts with his religious practice or tenets. Such written objection shall be incorporated in the medical record* .

~~3.02~~ *§ 3.2.* Applicable time intervals for testing infants born in hospitals.

~~3.02.01~~ *A.* Each full-term infant shall be *sampled for* the screening test ~~performed~~ *and the samples submitted to the Division of Consolidated Laboratory Services* at the time of discharge from the hospital or not later than ~~seven~~ *three* days of age. In those instances where the infant is discharged prior to ~~24~~ *48* hours of age, the mother ~~should~~ *shall* be instructed that the infant needs to be retested for ~~phenylketonuria~~ *the newborn screening test* by ~~two weeks~~ *one-week* of age.

~~3.02.02~~ *B.* Each premature infant shall have the screening test performed at two weeks of age, or at the time of discharge from the hospital, whichever is the earlier.

C. Transfused infant.

In those instances where the infant requires a transfusion with any blood product prior to 48 hours of age, a screening test shall be done prior to the transfusion. The infant needs to be resampled immediately upon development of clinical symptoms consistent with a screened disease or at the time of discharge from the hospital but not later than seven days of age.

~~3.03~~ *§ 3.3.* Infants born by other than hospital deliveries.

In the event the delivery occurs in any place other than in the delivery or birthing suite of a general hosptial, e.g., emergency room, home, or other such place, it shall be the responsibility of the physician, nurse or midwife in charge of the delivery, or if none, the first attending physician to cause a screening test to be performed before the infant reaches ~~two weeks~~ *one week* of age. If

unattended, ~~the first attending physician, as distinguished from the physician in charge of the delivery, does not see the infant prior to his/her second week of life,~~ then ~~he~~ *the first attending physician or health care provider* shall cause the screening test to be performed at the time of the first visit.

~~3.04~~ *§ 3.4.* Testing procedures and disposition of blood specimens.

~~3.04.01~~ *A.* The blood specimen for the screening test shall be collected *and identifying information provided* in accordance with the instructions on the forms provided, and ~~may~~ *shall* be mailed *within 24 hours from the time of collection* to the Division of Consolidated Laboratory Services, Bureau of Microbiological Science, *Newborn Screening Laboratory, P.O. Box 1877, Richmond, Virginia* ~~23219~~ *23215* ~~or to a private laboratory~~ .

~~3.04.02~~ *B.* The screening test shall be performed by the ~~Department~~ *Division of Consolidated Laboratory Services* without charge. Further, the specialized ~~supplies~~ *filter paper* required ~~to collect and transport~~ *for submitting* the specimen shall also be provided by the ~~Department~~ *Division of Consolidated Laboratory Services* without charge.

3.~~04.03~~ *C.* When it is ascertained that a ~~microquantitative serum phenylalanine level determination~~ *confirmatory test* is required, the ~~Department~~ *Division of Maternal and Child Health* shall provide the physician a specimen container and appropriate instructions as to the collection and disposition of the specimen.

~~Section 4.00~~

PART IV.
REPORTS AND NOTIFICATIONS.

~~4.01~~ *§ 4.1.* General.

The Division of Consolidated Laboratory Services shall be responsible for making the reports and notifying the Division of Maternal and Child Health when there is an abnormal result. The Director of the ~~Bureau~~ *Division* of Maternal and Child Health shall be responsible for ~~making and~~ receiving the reports and *making* notifications required to discharge the department's responsibility under these regulations. The laboratory reports will be sent to the person who submitted the specimen as indicated on the laboratory form accompanying the specimen. ~~For tests performed in private laboratories the provisions for reports and notifications of this section shall apply.~~

~~4.02~~ *§ 4.2.* Notification of suspicious laboratory results.

When the screening test reveals ~~a phenylalanine level greater than two milligrame percent~~ *an abnormal result,* the director shall notify the attending physician, or in cases where the attending physician is not identified, the local health director, in order to obtain additional blood samples. The director shall provide a specimen container along with appropriate instructions for obtaining and handling of the specimen.

~~4.02~~ *§ 4.3.* Presumptive diagnosis ~~of Phenylketonuria~~ .

When ~~the quantitative phenylalanine level in serum~~ *additional testing* supports a presumptive diagnosis of ~~phenylketonuria~~ *the disease screened for by the program,* the director shall notify the attending physician or local health director, as appropriate, to arrange for further evaluation. The director shall advise the attending physician of the department's program to manage the ~~PKU~~ patient. Further, he shall also recommend that the patient be carefully evaluated and treated in a coordinated way by combining the efforts of a physician trained in treating ~~inborn errors of metabolism, Nutritionist, and Public Health Nurse~~ *the disease screened for by the program and the patient's primary physician or clinic* to confirm the diagnosis and begin early dietary control *and medical management* to prevent mental retardation, *permanent disability, or death. These diseases and management are complicated, and therefore, require specialty services and consultation.*

~~Section 5.00~~

PART V.
~~Recommended Procedures for~~ *SERVICES AND* TREATMENT *PROVIDED* .

~~5.01~~ *§ 5.1.* ~~Regional Metabolic~~ *Specialty* clinics.

The ~~Director~~ *department* shall provide the services of ~~a PKU team composed of~~ appropriate professionals to conduct ~~predesignated Regional Metabolic~~ clinics for the management of *all* patients with ~~phenylketonuria~~ *a disease diagnosed as a result of the newborn screening program* .

~~5.02~~ § 5.2. Treatment for ~~PKU~~ infants in medically indigent families.

The department shall provide appropriate treatment for ~~infants~~ *patients* with ~~phenylketonuria~~ *a disease diagnosed as a result of the newborn screening program* in medically indigent families at no direct cost to the family.

~~Section 6.00~~

PART VI.
PENALTIES.

~~6.01~~ *§ 6.1.* Failure to comply with provisions; grounds for revocation of license or permit.

The failure of any *hospital* ~~physician, nurse or midwife~~ to comply with the provisions of these regulations shall, in addition to any other penalty prescribed by law, consititute grounds for revocation of the license ~~or permit~~ of such *hospital* ~~physician, nurse or midwife by the board issuing such license or permit~~ . *Any physician, nurse, or midwife*

failing to comply with provisions of these regulations shall, in addition to any other penalty prescribed by law, be reported to the Department of Health Professions and its specific boards.

* * * * * * * * *

Title of Regulation: **VR 355-12-02. State Plan for the Provision of Children's Specialty Services.**

Statutory Authority: §§ 32.1-12 and 32.1-77 of the Code of Virginia.

Public Hearing Date: December 8, 1989 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

The proposed State Plan for the Provision of Children's Specialty Services revises the previous state plan of May 1, 1987. The changes in the proposed plan include the following:

1. Incorporation of the Child Development Services Program. This program was transferred from the Division of Maternal and Child Health to the Division of Children's Specialty Services in 1987. The description; scope; content; patient services provided; organizational relationships; process for application, evaluation, treatment, variance and appeal; financial regulations; and financial procedures for this program are included in the plan.

2. Deletion of the registry of the deaf. This registry was transferred to the Department for the Deaf and Hard of Hearing by legislation in 1988.

3. Clarification of covered conditions and services in the existing program specialty clinics, as follows:

a. Cardiology - Children with Kawasaki Disease may be admitted to the program during hospitalization. Pacemakers are a covered service.

b. Cystic Fibrosis - Persons who do not meet criteria for low income may choose to pay the annual patient fee to cover professional services during the program clinic and to pay for all other medical services, including the purchase of medication at the pharmacy of their choice.

c. Hearing - A complete hearing evaluation performed by a licensed audiologist which indicates a hearing loss does not have to be repeated.

d. Hemophilia - All patients covered by insurance shall obtain their drugs through private pharmacy providers that have agreements with the program to provide such services.

e. Maxillofacial - Change of the name of the specialty clinic from Cleft Lip/Palate/Facial Deformities to Maxillofacial is allowed.

f. Neurology - Narcolepsy, developmental disorders, and attention deficit disorders are not covered.

g. Sickle Cell Disease - Comprehensive treatment services are covered for persons from birth to the fifth birthdate who have been identified as having Sickle Cell Disease by the newborn screening program as required by the Code of Virginia.

h. Surgery - Acquired cysts of the lungs and breast deformities are covered services. Add the word "correctable" as an adjective beside congenital anomaly or condition at birth requiring surgery within 30 days of birth. Delete the words "TO SAVE LIFE." Program coverage shall begin 24 hours before surgery. Tracheostomy supplies are a covered service for those patients requiring a tracheotomy while under program care.

i. Tumors - Benign and malignant tumors are covered conditions for diagnosis, surgical removal, and follow-up. Chemotherapy and radiotherapy in conjunction with treatment of malignant tumors are not covered, as well as hospitalization for terminal care after metastasis.

j. Urology - Circumcision revision is not a covered condition.

4. Clarification of direct hospitalization coverage for patients admitted between clinic sessions if preauthorized by the program director.

5. Addition of procedures for reporting an injury due to any type of accident that has occurred in a child seeking or receiving treatment in the program for the results of said accident. This allows a lien to be processed by the Assistant Attorney General's office in favor of the Commonwealth. At the conclusion of litigation, if a monetary award above the Medicaid Medically Needy Standard for One Person Household (resource limitation) has already been provided for the benefit of the child, such child may enter or remain on the program for management and follow-up, but must pay for all x-rays, laboratory work, tests, braces, appliances, drugs, hospitalization, and other treatment services until proof is provided that only the resource limitation remains in the award. The child then becomes eligible for full services if the family meets income requirements.

6. Modification of the eligibility procedures to require application to Medicaid for infants and children with family income that meets current Medicaid requirements for coverage. These patients may receive clinic services upon completion of the program application. They shall be referred to Medicaid, and

the program shall not be a payor of ancillary or hospitalization services until the appropriate Medicaid application has been processed for acceptance or denial.

VR 355-12-02. State Plan for the Provision of Children's Specialty Services.

PART 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:

"Administrative director" means an employee of the Child Development Services Program who is designated to be responsible for the administration of clinic activities at a clinic facility.

"Annual patient fee" means the annual charge for services provided in accordance with this plan and determined in accordance with the effective Board of Health "Regulations Governing Eligibility Standards and Charges for Medical Care Services."

"Appeal" means the patient's right to seek relief from a decision that results in denial of services included in the plan.

"Applicant" means an individual who has applied for treatment services provided by Division of Children's Specialty Services.

"Board" means the Virginia State Board of Health.

"Child development services" means the activities undertaken by the program for (i) the early identification of developmentally impaired children; (ii) the provision of preventive, diagnostic and treatment services authorized by the plan for such children; (iii) the development, strengthening and improvement of standards and techniques relating to the provision of such services; (iv) training of personnel engaged in providing these services; and (v) the necessary administrative services in connection with the aforementioned services.

"Children's specialty services" means the activities undertaken by the program for:

1. The early identification of handicapped children;

2. The provision for such children of preventive, diagnostic and treatment services authorized by the plan;

3. The development, strengthening and improvement of standards and techniques relating to the provision of such services;

4. Training of personnel engaged in providing these services, to the extent permitted by fiscal constraints; and

5. The necessary administrative services in connection with the aforementioned services.

"Clinic coordinator" means an employee of the program who is designated to be responsible for the administration of clinic activities at an assigned provider facility.

"Clinical director" means the physician in charge of a program sponsored clinic.

"Commissioner" means the State Health Commissioner. The commissioner is the chief executive officer of the board and vested with authority to act for the board when it is not in session.

"Covered condition" means a specific congenital or acquired physical condition which results in a handicapping condition which is amenable to surgical or medical intervention that results in correction or functional improvement of that condition and, for which services are specifically authorized by the plan.

"Covered services" means those diagnostic and treatment services that directly relate to the treatment of a covered condition *in the Children's Specialty Services Program and to a developmental disorder in the Child Development Services Program .*

"Department" means the Virginia Department of Health.

"Director" means the Director, Division of Children's Specialty Services.

"Division" means the Division of Children's Specialty Services.

"Handicapped child" means a child between birth and 21 years of age who meets the financial eligibility criteria, and is afflicted with a covered condition.

"Handicapping condition" means a congenital anomaly or acquired disease or condition which if untreated, will result in a significant diminution of one's physical ability to function in his environment, i.e., cleft lip/palate, amputation, club foot, scoliosis, burn scar contractures, but not including acute care for trauma, pneumonia or routine pediatric care.

"Hospitalization" means an admission to a provider facility for more than 24 hours for the treatment of a covered condition. (See subsections A.6 and A.7 of § 11.5.)

"Low income family" means those families whose annual gross income, as defined in the board's "Regulations Governing Eligibility Standards and Charges for Medical Care Services" does not exceed THE HIGHEST ANNUAL INCOME RANGE BELOW THE 100% SELF-PAY RANGE.

"Participant" or "patient" means an individual who meets all the eligibility criteria for the program, and has been accepted for treatment services.

"Plan" means the State Plan for the Provision of Children's Specialty Services prepared pursuant to Title V of the United States Social Security Act, as amended.

"Preauthorized" means written approval by the director prior to the provision of a covered service for a participant, except as otherwise provided for in the plan.

"Program" means Children's Specialty Services Program *and the Child Development Services Program* administered by the Division of Children's Specialty Services.

"Provider" means an individual or agency which provides a covered service under an agreement between the individual or agency and the Division of Children's Specialty Services.

"Provider facility" means any facility which provides a covered service under a contractual arrangement between that facility and the Division of Children's Specialty Services.

"Resident" means any child whose parents or legal guardian reside within the geographical boundaries of the Commonwealth with the intent to remain therein. Further, there shall be a reasonable assurance that the child will remain long enough to benefit from any treatment provided.

"Specialty program" means the diagnostic, treatment and ~~ease management~~ *care coordination* activities provided by the Division of Children's Specialty Services which are limited to a particular branch of medicine or surgery.

"Treatment services" means those preauthorized surgical or medical procedures necessary to correct or mitigate a covered handicapping condition *in the Children's Specialty Services Program and a developmental disorder and related conditions or problems in the Child Development Services Program* . This term shall include hospitalization, amubulatory surgery, outpatient surgery, in and out surgery, laboratory, radiographic and other diagnostic tests, medications, prostheses, appliances, or aftercare required to properly treat the covered condition. ANY SERVICE NOT SPECIFICALLY AUTHORIZED IN THIS PLAN IS NOT COVERED. RADIATION AND CHEMOTHERAPY ARE NOT COVERED.

"Variance" means an authorization to provide a noncovered service for a participant in the ~~Children's Specialty Program~~ *programs in the Division of Children's Specialty Services* when the additional service augments and provides for a better rehabilitative outcome.

PART II.
GENERAL INFORMATION.

§ 2.1. Authority.

Section 32.1-77 of the Code of Virginia authorizes the Board of Health to prepare, amend, and submit to the appropriate federal authority, a state plan for maternal and child health services and children's specialty services pursuant to Title V of the United States Social Security Act and any amendments thereto. Section 32.1-12 of the Code of Virginia authorizes the board to promulgate regulations. This document is prepared under this authority.

§ 2.2. Purpose of the plan.

To ensure that services for the treatment and rehabilitation of handicapped children are made available to eligible citizens of the Commonwealth within available appropriations and to qualify for federal funds to implement the plan.

§ 2.3. Authority to administer the plan.

Section 32.1-77 of the Code of Virginia authorizes the Commissioner of Health to administer the plan and to receive and expend federal funds for the administration thereof in accordance with applicable federal and state laws and regulations.

The commissioner hereby delegates the authority to supervise the day-to-day activities required to administer the plan to the director, Division of Children's Specialty Services. The director shall be responsible for the efficient and effective implementation of the plan and shall be accountable to the commissioner.

§ 2.4. Effective date of plan.

This plan will become effective on ~~May 1, 1987~~ *April 1, 1990* .

§ 2.5. Emergency suspension of services.

The commissioner may suspend any portion of the plan, including services provided, to ensure the financial integrity of the Children's Specialty Services Program. The commissioner shall report any action taken under the provisions of this section to the Board of Health at its next scheduled meeting.

PART III.
ASSURANCE AND REFERENCES.

§ 3.1. Section 32.1-77 of the Code of Virginia designates the Commissioner of Health, a physician and Chief Executive Officer of the Department of Health, as the administrator of this plan.

The director of the Division of Children's Specialty Services, an organizational unit of the department, has the responsibility for supervising the day-to-day activities required to administer the plan. The director of this division is a physician and full-time employee of the

Department of Health.

§ 3.2. Confidentiality of medical records is assured by § 32.1-41 of the Code of Virginia.

§ 3.3. Participating hospitals have signed a contract with the department accepting reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities, determined in conformity with standards approved by the Secretary of Health and Human Services. This rate shall be calculated annually as an aggregate cost to charges based on Title XIX reimbursable costs. payments for care based on Medicaid allowable cost determinations.

Further, the contract also stipulates that payments made by the department and accepted by the hospital constitutes full payment for services provided to patients sponsored by the Division of Children's Specialty Services.

§ 3.4. All services purchased for recipients of the Children's Specialty Services Program are made in accordance with policies and procedures of the Commonwealth of Virginia's Department of General Services. Records are on file for audit for a period of five years from year of purchase.

§ 3.5. The Department of Health maintains adequate records to show the disposition of all funds expended for activities under the plan.

§ 3.6. The plan does not preclude establishment of "Demonstration Projects" when approved by the commissioner. All such projects shall be relevant to the children's specialty services provided through the administration of the plan.

§ 3.7. The plan does not preclude the use of subprofessional staff and volunteers in the provision of services authorized by the plan.

PART IV.
ORGANIZATIONAL RELATIONSHIPS.

§ 4.1. Relationships between Division of Children's Specialty Services and:

A. Local health departments.

The division and local health departments work as partners in the provision of services to handicapped children. The program provides medical specialists and clinics for patients in both selected locations and local health departments for diagnostic services and treatment of specified conditions. In the specialty clinics eligibility certification and the fee collection are also conducted by the program personnel.

The local health department provides case finding, initial eligibility determination, fee collection, and counseling for all program patients. Space, equipment and personnel to conduct clinics are provided by local health departments for specialty clinics held on their premises for program sponsored patients. Local health departments are responsible for ~~case management~~ *care coordination* between specialty clinic visits.

B. *Academic* medical ~~schools~~ *centers* in Virginia.

The program provides personnel, i.e., nurse coordinators, clerks, physical therapists, and social workers, to operate specialty clinics held in the *academic* medical ~~schools~~ *centers* . Reimbursement to physicians conducting specialty clinics is based on time spent in clinic.

The *academic* medical ~~schools~~ *centers* provide space, supplies, and routine equipment for conducting specialty clinics. Personnel, i.e., physicians, nurses, and support personnel, to accomplish outpatient services, ancillary services and hospitalization services are provided by state *academic* medical ~~schools~~ *centers* .

C. Hospitals.

The program provides personnel, i.e., nurse coordinators, clerks, physical therapists, and social workers, to operate specialty clinics held in hospitals. Also provided by the program is reimbursement for ancillary services, hospitalization, and reimbursement to physicians based on time spent in clinics. Office space/equipment are provided by the program.

D. Volunteer organizations.

1. United Cerebral Palsy.

United Cerebral Palsy may provide case findings, clinics, clinicians, and other personnel to operate clinics located at cerebral palsy centers.

The program provides covered appliance, ancillary services and hospitalization as recommended by the cerebral palsy clinical director for those patients accepted into the program from the cerebral palsy center.

2. Hemophilia Foundation.

The Hemophilia Foundation provides case findings and an advisory committee to direct public attention toward hemophilia through education. The program provides covered services to hemophiliacs.

3. Society for Crippled Children and Adults.

The Society for Crippled Children and Adults provides case findings and directs public attention to handicapped persons through education. Also the society provides some equipment and appliances not provided by the program (wheelchairs, walkers, etc.)

E. Other state agencies and programs.

1. Department of Rehabilitative Services.

The Department of Health has formal agreements with the Department of Rehabilitative Services for provision of clinic services by the program with the Department of Rehabilitative Services reimbursing for ancillary services, hospitalization, drugs, and equipment/appliances.

2. Department of Corrections.

The Department of Health has formal agreements with the Department of Corrections to provide continued clinic services for previous program participants. Reimbursement for covered ancillary services, drugs, and hospitalization is made by the Department of Corrections.

3. Department of Education.

The ~~Division of Special Education Programs and Services of the~~ *Virginia* Department of Education provides educational consultants to the program as an integral part of the evaluation and medical team. The educational consultant is a direct liaison between the program and public schools. The program also cooperates with the Division of Special Education Programs and Services in development of medical-educational programs for handicapped children ages birth to 21 years in support of Public Laws 94-142 and 99-457.

The program is a medical resource in support of the Statewide Scoliosis Screening Program in public schools.

~~4. Maternal and Child Health. Child Development Clinic Program.~~

~~The program has formal agreements with the Division of Maternal and Child Health's child development clinics providing for cross referral from agency to agency, under which each agency will purchase the services ordered or recommended during the course of their treatment of the patient.~~

~~5.~~ *4.* Maternal and Child Health. Genetics Disease Program.

The ~~program~~ *division* has a formal agreement with the Division of Maternal and Child Health's Genetics Disease Program providing for cross referral between the program and genetics centers. Genetic counseling, testing and diagnostic services shall be provided by the genetics centers to program patients as part of their funding through the Maternal and Child Health Services Block Grant.

F. Primary care physicians.

The program encourages each family to have a primary care physician for the provision of general health care to the child. The program sends clinic reports and hospital discharge summaries to the child's primary care physician to enhance medical management and promote continuity of care between program clinic visits.

PART V.
CHILDREN'S SPECIALTY SERVICES SCOPE AND CONTENT.

§ 5.1. Mission statement.

The Virginia Children's Specialty Services Program's primary thrust is capacity building through a statewide structured health care delivery system which ensures the availability of appropriate and proper comprehensive care for handicapped children. Such a system stresses quality assurance, establishment of standards, and monitoring of performance. Quality assurance involves the establishment of codified service programs under contract outlining professional qualifications and space, equipment, and procedure standards.

The system involves multidisciplinary teams and paraprofessionals, brought together for the comprehensive management of the multiple problems associated with long-term, multistaged, and complicated handicapping conditions.

In addition to availability and quality assurance, the system is geared to individual needs and stresses continuity of care through shared responsibilities and coordination.

§ 5.2. Scope of services.

The division through agreements and contracts, provides structured programs within university medical facilities, private hospitals, and local health departments, for the specialized diagnosis and treatment of the broad series of childhood handicapping conditions. The program concentrates on highly specialized services which are not generally or readlily available within local communities and are of such a complicated and long-term nature that the cost would be prohibitive to low income families.

Regional center management is accomplished through program offices located within the center. Program coordinators supervise all program transactions and activities within the center. The coordinator works with the clinical director relative to patient treatment to families, consults with nurses in local health departments, and follows program sponsored patients through hospital stays.

§ 5.3. Goals and objectives of the program.

A. Goals.

1. To locate ~~all~~ children within the Commonwealth in need of children's specialty services.

~~2. To maintain a registry of the deaf in the Commonwealth (§ 63.1-85.5 of the Code of Virginia).~~

~~3.~~ *2.* To maintain the Virginia Hearing Impairment Identification and Monitoring System (§§ 32.1-64.1 and 32.1-64.2 of the Code of Virginia).

~~4.~~ *3.* To provide diagnostic and treatment services by qualified medical specialists through regularly-scheduled clinics located in comprehensive medical/surgical regional centers as well as numerous field centers so as to be accessible to all parts of the Commonwealth.

~~5.~~ *4.* To provide comprehensive outpatient and inpatient medical/surgical care for handicapped children.

~~6.~~ *5.* To arrange for indicated ancillary and professional services.

~~7.~~ *6.* To plan, develop and facilitate implementation of needed services for handicapped children.

B. Objectives.

1. General.

The director shall develop objectives that are the basis for the annual management plan for the program. These objectives are developed as a result of the director's assessment of statistical data, the Virginia State Health Services Plan, and federal initiatives. These objectives shall become part of this plan if they have been accepted as part of the department's Biennium Budget Proposal. No special review action shall be required to include these objectives.

PART VI.
SERVICES PROVIDED.

§ 6.1. Amputee.

A. Covered conditions shall be limited to amputations of the hand, arm, leg, feet, fingers, and toes. Neoplasms of all extremities requiring amputation are also covered.

EMERGENCY AMPUTATION DUE TO ACCIDENTS IS NOT A COVERED SERVICE DURING ACUTE PHASE OF TREATMENT. Children with this condition can be referred to the program for long-term rehabilitation.

B. Treatment services.

1. Clinic services shall be provided by a team (Amputee Board) of orthopedist, prosthetist, occupational therapist, and physical therapist.

2. Hospitalization shall include surgery related to the covered condition and for fitting of and training in use of prostheses.

3. Ancillary services shall include temporary and permanent prosthetic devices and repairs, physical therapy, occupational therapy, stump care, gait training, stump socks, drugs, radiographic examinations, orthopedic appliances (braces, shoes, crutches, canes) and repairs, stump wrapping, casts, and muscle tests required for treatment of the covered conditions.

§ 6.2. Cardiology.

A. Covered conditions shall be limited to congenital heart disease, rheumatic fever, Kawasaki Disease, tachyarrhythmias, bradyarrhythmias, infective endocarditis, and diseases of the pericardium and myocardium.

Referral by the child's physician is required. The physician's nurse practitioner may make the referral.

B. Treatment services.

1. Clinic services.

Medical follow-up shall be provided by a pediatric cardiologist.

2. Hospitalization.

Newborn infants with congenital cardiac conditions of such severity as to require immediate corrective or palliative surgery within 30 days of birth and children with rheumatic fever *and Kawasaki Disease* may be admitted for program sponsored treatment services during hospitalization.

Hospitalization for cardiac catherization, cardiac surgery, and cardiac complications of the covered conditions shall be provided. ADMISSIONS FOR TREATMENT OF PNEUMONIA SHALL NOT BE COVERED.

For patients already admitted to the Children's Specialty Services Program during clinic services, the program may authorize three days hospitalization for diagnosis or evaluation of cardiac problems. If illness is not due to this condition, authorization for hospitalization will not be extended.

Hospitalization for the treatment of children during the acute phase of rheumatic fever shall be provided, to a maximum of 21 days.

Program sponsored patients admitted to a program approved hospital as an emergency for cardiac complications of the covered conditions may have treatment services without preauthorization if the program's contract cardiologist has confirmed the diagnosis.

3. Ancillary services shall include drugs, chest radiographs, EKG, blood and urine chemistries,

Echocardiogram, exercise stress test, Holter Monitor, cardiac blood pool imaging, Doppler Study, *pacemaker,* and magnetic resonance imaging.

§ 6.3. Cerebral palsy.

A. Covered condition shall be limited to cerebral palsy.

B. Treatment services.

1. Clinic services shall be provided by a team consisting of othopedist, occupational therapist, physical therapist, rehabilitation engineer and orthotist and located at cerebral palsy centers.

2. Hospitalization shall be limited to orthopedic surgery and intensive physical and occupational therapy required during the hospital stay.

3. Ancillary services shall be limited to orthopedic appliances and repairs, orthoses, physical therapy, occupations therapy, drugs, radiographic examinations, casts, magnetic resonance imaging, blood and urine tests, and muscle tests required for the treatment of the covered condition.

§ ~~6.4. Cleft lip/palate facial deformities.~~

~~A. Covered conditions shall be limited to cleft lip, cleft palate, cleft lip and palate and congenital facial deformities such as Aperts, Treacher-Collins, craniofacial microsomias, prognathisms, tumor, Cruzon's Syndrome, Pierre Robin Syndrome, and short palate, as well as other mandibulofacial dysostosis. Tongue-tie is not a covered condition unless accompanied by mandibulofacial problem. Orthodontics without plastic surgery is not covered.~~

~~B. Treatment services.~~

~~1. Clinic services shall be provided by a clinic which may be made up of plastic surgeon, pedodontist, orthodontist, prosthodontist, oral surgeon, speech pathologist, medical social worker and pediatrician.~~

~~Children with suspected medical ear problems or hearing loss shall be automatically referred to the Hearing Impairment Program by the coordinator of the Facial Deformities Program.~~

~~2. Hospitalization shall be limited to surgical correction of the covered condition or complications of the covered condition.~~

~~3. Ancillary services shall be limited to radiographic examination; laboratory tests; drugs; photographs which are a part of the patient's medical record and are considered necessary for evaluation of growth and development; speech and language evaluation and speech therapy as recommended by clinic team; appliances; dental orthodontic or prosthodontic care relative to the covered condition.~~

~~C. Nonlow income patients.~~

~~Persons with severe cleft lip and cleft palate or extensively involved facial deformities and syndromes which will involve long-term multistaged surgeries and reconstructions who do not meet criteria for low income (see Part I) shall be allowed to attend program sponsored clinics on payment of the annual fee. Such patients shall be responsible for the cost of medical services directly with the provider. After presenting evidence of medical expenses incurred, not covered by insurance, for the patient in an amount equal to 5.0% of the family's gross annual income, the patient will then become a program sponsored patient and be eligible for all indicated treatment services as outlined in subsection B of § 6.4 until the next annual financial recertification.~~

§ ~~6.5.~~ *§ 6.4.* Cystic fibrosis.

A. Covered condition shall be limited to cystic fibrosis.

B. Treatment services.

1. Clinic services shall be provided by a pediatrician and may include consultation with other team members comprised of physical therapist, social worker, nutritionist and education consultant.

2. Hospitalization shall be limited to treatment of acute exacerbation of the disease and evaluation and treatment for meconium ileus equivalent or other complications associated with cystic fibrosis. Surgical removal of nasal polyps shall be covered if performed in existing programs.

3. Ancillary services shall be limited to laboratory studies, i.e., sweat chloride determination by pilocarpine iontophoresis sweat gland stimulation and titrimetric quantitative analysis, blood studies, urine studies, and throat and sputum cultures, radiographic examinations relative to cystic fibrosis, pulmonary functions studies, medication, i.e., antibiotices, enzymes, vitamins, expectorants, nebulization equipment, and physical therapy. Special formula is not covered. Supplies for intravenous antibiotic therapy in the home shall be ordered through the Bureau of Pharmacy Services.

C. ~~Nonlow~~ *Other than low* income patients.

Persons who do not meet criteria for low income (see Part I) shall be allowed to attend program sponsored clinics on payment of the annual fee. This allows such patients to order authorized medication through the Bureau of Pharmacy Services. Such patients shall be responsible for the cost of medical services directly with the provider. Drugs shall be paid for at time order is placed in the local health department. After presenting evidence of medical expenses incurred , not covered by insurance, for the patient in an amount equal to 5.0% of the family's gross annual income, the patient will then become a

program sponsored patient and be eligible for all indicated treatment services as outlined in subsection B of § ~~6.5~~ *§ 6.4* until the next annual financial recertification.

At their option, persons who do not meet criteria for low income patients (see Part I) may choose to pay the annual patient fee to cover professional services provided during the program clinic and to pay for all other medical services including the purchase of medication at the pharmacy of their choice.

D. Adult cystic fibrosis patients over 21 years of age shall be provided clinic services and ancillary services (see subsections B.1 and B.3 of § ~~6.5~~ *§ 6.4*). No hospitalization is provided for adults.

§ ~~6.6.~~ *§ 6.5.* Endocrinology.

A. Covered conditions shall be limited to diseases or disorders of the pituitary glands, thyroid gland, parathyroid glands, adrenal glands, pancreas and gonads.

Full evaluation for short stature (defined as below the fifth percentile on the height chart for sex and age), tall stature, growth failure, precocious puberty, delayed sexual development and such other syndromes shall be provided but unless they have an endocrinological cause, they cannot be followed for ongoing treatment services in the endocrinology clinic but may qualify for coverage in another program sponsored clinic.

B. Treatment services.

1. Clinic services shall be provided by a pediatric endocrinologist.

2. Hospitalization shall be provided for required surgery and medical management of complicated covered conditions.

3. Ancillary services shall include laboratory services, i.e., blood studies and urine studies, necessary to diagnose or treat a covered condition, radiographic studies relative to the covered condition, and medication necessary to treat covered conditions.

C. Childhood and Adolescent Diabetes Program.

The diabetic clinics are a part of the Endocrinology Program and are especially structured for the treatment, management, and follow up of children and adolescents with diabetes mellitus. The clinics may function as a part of the endocrine clinics or may be self-standing.

1. Self-standing diabetes clinic services shall be limited to the treatment of diabetes mellitus and its complications.

2. Hospitalization shall be provided for required medical management of complicated covered condition when ordered by the clinical director.

3. Ancillary services shall cover radiographic studies, laboratory testing, insulin syringes, and testing materials.

§ ~~6.7.~~ *§ 6.6.* Eye surgery.

A. Covered conditions shall be limited to strabismus, acquired cataract, strabismus with amblyopia, malignancies of eye requiring enucleation, conditions requiring corneal transplant, chronic glaucoma, ptosis, lacrimal stenosis, juvenile rheumatoid arthritis uveitis, granulomatous uveitis, keratoconus, retrolental fibroplasia, posttraumatic eye complications, congenital anophthalmos, congenital malformation of the eye, and albino eye conditions.

ACUTE GLAUCOMA AND ACUTE EYE ACCIDENTS ARE NOT COVERED CONDITIONS.

ABNORMAL VISION DUE TO REFRACTIVE ERROR ONLY AND RETINAL DETACHMENT ARE NOT COVERED CONDITIONS.

B. Treatment services.

1. Clinic services shall be provided by an opthalmologist.

2. Hospitalization and outpatient eye surgery shall be provided and limited to eye surgery for covered conditions.

3. Ancillary services shall be limited to eye glasses, drugs, prostheses, eye occlusors, contact lens, radiographic examinations, blood tests, and urine tests required for the diagnosis and treatment of the covered condition.

§ ~~6.8.~~ *§ 6.7.* Hearing impairment.

A. Before referral to a hearing impairment clinic, children must have failed a local hearing screening test followed by a failure of a rescreen in two to four weeks. They shall also have a local medical examination for impacted wax, foreign bodies, obvious pathology, etc. *A complete hearing evaluation performed by a licensed audiologist which indicates a hearing loss does not have to be repeated.* Children too young to respond to audiometric screening can be screened with tympanometry *, or* the Modified Ewing *(both must be repeated, as above, in two to four weeks)* , or on the basis of high risk status for hearing loss. Children unable to be screened because of a handicap are exempt from this referral requirement. Children known to the ~~cleft~~ ~~lip/cleft~~ ~~palate~~ *Maxillofacial* Program can be referred to hearing impairment clinic without screen failures.

B. Covered conditions shall be limited to chronic recurrent otitis media, mastoiditis, congenital conditions of external auditory canal, middle and inner ear, disorders of tympanometry, the Modified Ewing, or on the basis of high risk status for hearing loss. Children unable to be

screened because of a handicap are exempt from this referral requirement. Children known to the cleft lip/cleft palate program can be referred to hearing impairment clinic without screening failures.

C. Treatment services.

1. Clinic services shall be provided by a team consisting of otologist, audiologist, psychologist and social worker.

2. Hospitalization and outpatient ear surgery shall be provided and limited to corrective ear surgery required for the covered conditions. TONSILLECTOMY AND ADENOIDECTOMY FOR THE TREATMENT OF DOCUMENTED AND DEMONSTRABLY RELATED HEARING LOSS IS COVERED.

3. Ancillary services shall be limited to medication, complete hearing evaluation, hearing aid evaluation, hearing aids and repairs, speech therapy, blood and urine tests, radiographic examinations, aural rehabilitation, and speech-language evaluation required for treatment of the covered conditions.

~~§ 6.9.~~ *§ 6.8.* Hemophilia.

A. Covered conditions shall be limited to hemophilia and Von Willebrand's disease.

B. Treatment services.

1. Clinic services shall be provided by a team consisting of a hematologist, orthopedist, and physical therapist.

2. Hospitalization shall be provided for severe bleeding episodes. Required orthopedic surgery is limited to individuals up to 21 years of age.

Emergency room care is provided for acute accidents and bleeding episodes.

A life threatening bleeding episode requiring immediate care may be received at the nearest hospital without prior authorization by the program if or when the family has a private physician who manages the case in consultation with the clinical director and the hospital has adequate capabilities for treatment services.

3. Ancillary services shall be limited to ~~drugs,~~ training for home infusion, radiographic examinations, orthopedic appliances, splints, casts, physical therapy and blood tests required for the treatment of the covered conditions. *Coverage for drugs by the program shall be limited to patients who do not have medical insurance. All patients covered by insurance shall obtain their drugs through private pharmacy providers that have agreements with the program to provide such services.*

C. ~~Nonlow~~ *Other than low* income patients.

Persons who do not meet criteria for low income patients (see Part I) shall be allowed to attend program sponsored clinics on payment of the annual patient fee. This allows such patients to order authorized medication through the Bureau of Pharmacy Services. Due to the extremely high cost of the blood products, patients with hemophilia may pay the annual medical spend down in monthly installments to the program coordinator. The spend down is equivalent to 5.0% of the family's gross annual income. The spend down shall be fully paid at the end of the 12 month period from the annual recertification date.

D. Covered services shall be provided for children and adults.

§ 6.9. ~~*Cleft lip/palate facial deformities.*~~ *Maxillofacial.*

A. Covered conditions shall be limited to cleft lip, cleft palate, cleft lip and palate and congenital facial deformities including severly handicapping conditions such as Aperts, Treacher-Collins, craniofacial microsomias, prognathisms, tumors, Cruzon's Syndrome, Pierre Robin Syndrome, and short palate, as well as other mandibulofacial dysostosis. Tongue-tie is not a covered condition unless accompanied by mandibulofacial problem. Orthodontics without plastic surgery is not covered.

B. Treatment services.

1. Clinic services shall be provided by a clinic which may be made up of plastic surgeon, pedodontist, orthodontist, prosthodontist, oral surgeon, speech pathologist, medical social worker and pediatrician.

Children with suspected medical ear problems or hearing loss shall be automatically referred to the Hearing Impairment Program by the coordinator of the Maxillofacial Program.

2. Hospitalization shall be limited to surgical correction of the covered condition or complications of the covered condition.

3. Ancillary services shall be limited to radiographic examination; laboratory tests; drugs; photographs which are a part of the patient's medical record and are considered necessary for evaluation of growth and development; speech and language evaluation and speech therapy as recommended by clinic team; appliances; dental orthodontic or prosthodontic care relative to the covered condition.

C. Other than low income patients.

Persons with severe cleft lip and cleft palate or extensively involved facial deformities and syndromes which will involve long-term multistaged surgeries and reconstructions who do not meet criteria for low income

(see Part I) shall be allowed to attend program sponsored clinics on payment of the annual fee. Such patients shall be responsible for the cost of medical services directly with the provider. After presenting evidence of medical expenses incurred, not covered by insurance, for the patient in an amount equal to 5.0% of the family's gross annual income, the patient will then become a program sponsored patient and be eligible for all indicated treatment services as outlined in subsection B of § 6.9 until the next annual financial recertification.

§ 6.10. Neurology.

A. Covered conditions shall be limited to seizures; neurocutaneous and neuromuscular diseases; degenerative disorders of cerebral white matter, cerebellum, and basal ganglia; neoplasms (diagnosis only); toxic encephalopathy; and diseases of the the spinal cord. *Narcolepsy, developmental disorders, and attention deficit disorders are not covered.*

Referral by the child's primary physician is required. Children with emotional, school, and social problems or learning disabilities as their primary problem shall be referred to the child development clinics.

B. Treatment services.

1. Clinic services shall be provided by a team which includes a neurologist, psychologist, social worker and educational consultant.

2. Hospitalization for special work ups, difficult drug adjustment, and status epilepticus may be approved. All such hospitalization shall be approved and preauthorized (see Part I). An admission of a program sponsored patient for a life threatening episode of status epilepticus does not require preauthorization.

3. Ancillary services shall be limited to drugs, blood tests, urine tests, radiographic examinations, EEG, CAT SCAN, EMG and ultrasonography, and magnetic resonance imaging.

C. Adult neurology.

When a program sponsored patient in the neurology program reaches the age of 21 years and the clinic director determines that the patient will benefit from continued follow up, the patient may continue program sponsored clinic visits; however, the patient shall pay the annual fee and all other costs except attending the clinic for follow up.

§ 6.11. Neurosurgery.

A. Covered conditions shall be limited to meningocele; myelomeningocele, encephalocele; craniosynostosis; subdural hematomas and effusions; surgically resectable abcesses, cysts, and tumors; surgical decompressions; surgical shunting for all types of hydrocephalus.

B. Treatment services.

1. Clinic services shall be provided by a neurosurgeon.

2. Hospitalization shall be limited to surgical intervention for covered conditions.

3. Ancillary services shall be limited to radiographic examination, drugs, mangnetic resonance imaging, physical therapy, occupational therapy and laboratory studies necessary to treat the covered conditions.

§ 6.12. Orthopedics.

A. Covered services shall be limited to any condition of the bone, joint or muscle which meets the definition of a handicapping condition. ROUTINE FRACTURES AND ACCIDENTS SHALL NOT BE COVERED. Spontaneous fractures in the case of osteogenesis imperfecta, which are an integral part of the disease process, are covered, as well as fractures occurring secondary to other covered conditions.

B. Treatment services.

1. Clinic services shall be provided by orthopedists, physical therapist, occupational therapist, rehabilitation engineer and orthotist.

2. Hospitalization and inpatient and outpatient orthopedic surgery shall be provided and limited to corrective orthopedic surgery for covered conditions; but, rehabilitation shall be limited to procedures that can only be performed in a hospital. Hospitalization may be preauthorized for up to three days for diagnostic work up which may include arthrogram, arteriogram, muscle and bone biopsy, or myelogram if the clinician is unable to make an outpatient diagnosis.

3. Ancillary services shall be limited to physical therapy, occupational therapy, cast, orthopedic appliances and repairs, orthoses, magnetic resonance imaging, radiographic examinations, muscle tests, drugs, and blood and urine tests required for treatment of the covered conditions.

4. Physical therapy.

Physical therapists in the Division of Children's Specialty Services shall attend all orthopedic clinics held in their assigned area and take medical orders from the attending orthopedists. Physical therapists carry out medical orders of any program clinical director through physical therapy clinics and home visits.

Physical therapy may be purchased on an outpatient basis from a contract provider for program sponsored patients when ordered by the attending clinician. This service is used when a patient needs a modality or frequency of treatment not available in a program

physical therapy clinic and when physical therapy is not available in the school system.

§ 6.13. Pediatric evaluations.

Every new patient admitted to any Children's Specialty Services Program who is not under the general well-child supervision of a local general practitioner or pediatrician shall be provided a comprehensive pediatric evaluation following the same protocol as required by Medicaid's Early and Periodic Screening, Diagnosis, and Treatment Program. The report will be incorporated as an integral part of the chart. If a condition is discovered by the evaluation which the program does not cover, the patient will be referred to the other medical resources.

§ 6.14. Plastic surgery.

A. Covered conditions shall be limited to burn scar contractures, grafting for old burn scars, burn-related reconstructive surgery, congenital anomalies of the hands and feet (syndactylism), supernumerary digits, congenital absence or malformation of the ear, hypospadias if uncomplicated by other genitourinary anomalies, ptosis of eyelid, extensive hemangiomas scar contractures resulting from trauma branchiogenic sinus and cyst, thyroglossal cyst, pigmented nevi, keloids, hypoplastic breast, perianal lesions and pressure ulcers in insensate skin.

B. Treatment services.

1. Clinic services shall be provided by a plastic surgeon.

2. Hospitalization and outpatient plastic surgery shall be provided and limited to surgical intervention for covered conditions.

3. Ancillary services shall be limited to radiographic examination necessary to treat the covered condition, laboratory services necessary to treat the covered condition, drugs, photographs as part of the medical record, physical therapy and occupational therapy evaluation, physical therapy services and special appliances recommended by clinician.

§ 6.15. Rheumatology.

A. Covered conditions shall be limited to juvenile rheumatoid arthritis, juvenile ankylosing spondylitis and other spondyloarthropathies, systemic lupus erythematosis, dermatomyositis and polymyositis, scleroderma, mixed connective tissue diesase and other overlap syndromes, vasculitis syndromes such as Henoch-Schonlein, polyarthritis nodosa, Wegeners Granulomatosis, Kawasaki Disease, infectious and post infectious arthritis, connective tissue disorders (Marfan's Syndrome, etc.), erythema multiforme, erythema nosdosum, Lyme Disease and arthritis or arthralgias of unknown etiology.

B. Treatment services.

1. Clinic services shall be provided by a pediatric rheumatologist.

Children with complications such as seizures or cardiac involvement shall be followed in appropriate program sponsored clinics.

2. Hospitalization shall be limited to diagnosis, medical and surgical treatment of the covered condition.

3. Ancillary services shall be limited to drugs, physical therapy, nutrition services, occupational therapy, radiographic examinations, blood and urine tests, casts, orthopedic appliances and repairs, and muscle tests required for treatment of the covered condition.

~~§ 6.16. Sickle cell anemia.~~

~~A. Covered condition shall be limited only to sickle cell disease crisis. NO SCHEDULED SICKLE CELL DISEASE CLINICS ARE SPONSORED BY THE PROGRAM. THE PROGRAM DOES NOT PARTICIPATE IN ROUTINE MANAGEMENT OF SICKLE CELL DISEASE.~~

~~B. Treatment services.~~

~~1. Clinic services shall be limited to crisis intervention measures performed in an emergency room facility of a hospital under contract with the program.~~

~~2. Hospitalization shall be limited to emergency treatment in the hospital for sickle cell disease crisis and does not require preauthorization.~~

~~3. Ancillary services shall be limited to laboratory services, i.e., blood and urine studies, and radiographic examinations necessary to treat covered conditions in an emergency room or hospital without preauthorization. Also included are intravenous administration of fluids, supplies associated with intravenous infusion, and scheduled prophylactic transfusions on an outpatient basis.~~

~~§ 6.17.~~ *§ 6.16.* Scoliosis.

A. Covered conditions shall be limited to scoliosis and kyphosis.

B. Treatment services.

1. Clinic services shall be provided by an orthopedist, physical therapist and orthotist.

2. Hospitalization shall be limited to surgery, bracing, myelogram, and casting for the covered condition. HOSPITALIZATION FOR DIAGNOSIS ONLY SHALL NOT BE AUTHORIZED.

3. Ancillary services shall be limited to orthopedic appliances and repairs, casts, physical therapy, drugs, magnetic resonance imaging, and radiographic

examinations required for treatment of the covered conditions.

§ 6.17. Sickle cell disease.

A. Covered condition shall be limited only to sickle cell disease.

B. Treatment services (sickle cell disease crisis).

1. Clinic services shall be limited to crisis intervention measures performed in an emergency room facility of a hospital under contract with the program.

2. Hospitalization shall be limited to emergency treatment in the hospital for sickle cell disease crisis and does not require preauthorization.

3. Ancillary services shall be limited to laboratory services, i.e., blood and urine studies, and radiographic examinations necessary to treat covered conditions in an emergency room or hospital without preauthorization. Also included are intravenous administration of fluids, supplies associated with intravenous infusion, and scheduled prophylactic transfusions on an outpatient basis.

C. Treatment services (comprehensive services).

1. Clinic services shall be provided by a pediatric hematologist to persons from birth to the fifth birthdate who have been identified as having sickle cell disease by the newborn screening program.

2. Hospitalization shall be limited to emergency treatment for serious bacterial infection in the hospital and in the emergency room and does not require preauthorization.

3. Ancillary services shall be limited to prophylactic penicillin, preventive vaccines, laboratory studies and radiographic examinations.

§ 6.18. Spina bifida (myelodysplasia).

A. Covered condition shall be limited to meningocele, myelomeningocele, lipomeningocele, diastematomyelia, and other intraspinal lesions.

B. Treatment services.

1. Clinic services shall be provided by a team consisting of orthopedist, neurosurgeon, urologist, physical therapist, orthotist, rehabilitation engineer and occupational therapist.

2. Hospitalization shall be limited to corrective surgery and rehabilitation, bracing and casting for the covered condition.

3. Ancillary services shall be limited to physical therapy, occupational therapy, casts, orthopedic appliances and repairs, drugs, orthoses magnetic resonance imaging, radiographic examinations, muscle tests, and blood and urine tests required to treat the covered conditions.

C. ~~Nonlow~~ *Other than low* income patients.

Persons who do not meet criteria for low income (see Part I) shall be allowed to attend program sponsored clinics on payment of the annual fee. This allows such patients to order authorized medications through Bureau of Pharmacy Services. Such patients shall be responsible for the cost of medical services directly with the provider. After presenting evidence of medical expenses incurred, not covered by insurance, for the patient in an amount equal to 5.0% of the family gross annual income, the patient will then become a program sponsored patient and be eligible for all indicated treatment services as outlined in subsection B of § 6.18 until the next annual financial recertification.

§ 6.19. Surgery.

A. Covered conditions shall be limited to correctable congenital or acquired deformities of the gastrointestinal tract (tracheosophageal fistula, atresias, duplications, strictures, Hirschsprung's disease, omphalocele, diaphragmatic hernia, ileostomy and colostomy for ulcerative colitis, tumors, and regional ileitis); lung and thoracic wall (deformities of rib cage (pectus excavatum), congenital *or acquired* cysts of the lungs, congenital bronchial strictures, bronchial cysts, and bronchiectasis); *breast deformities;* and hepatic disorders and pancreatic lesions (atresia of the bile ducts, tumor, and choledochal cysts).

B. Treatment services.

1. Clinic services shall be provided by a pediatric surgeon.

2. Hospitalization shall be limited to pediatric surgical intervention for covered conditions with ancillary services necessary to treat covered conditions.

a. Selected hospital referral. In cases of *correctable* congenital anomaly or condition at birth requiring surgery in the newborn within 30 days of birth ~~TO SAVE LIFE~~ which meet the criteria in subsection D of § 7.1, the program ~~may~~ *shall* provide coverage within limits set forth in subsection A of § 11.5 *beginning 24 hours before surgery* .

3. Ancillary services shall be limited to radiographic examination necessary to treat covered conditions, laboratory studies, i.e., cultures, blood studies, etc., necessary to treat covered conditions, medication, and appliances, i.e., colostomy bags, etc. *Tracheostomy supplies shall be provided only if the tracheotomy was required while the patient was under program*

care.

§ 6.20. Tumors.

A. Covered conditions.

Although there is no codified oncology program, all tumors, whether benign or malignant, occurring in organs covered by the program specialties (bone, muscle, soft tissue, skin, brain, eyes, respiratory tract, digestive tract, endocrine glands) are covered for diagnosis, surgical removal, and follow-up. Chemotherapy and radiotherapy in conjunction with treatment of malignant tumors are not covered, as well as hospitalization for terminal care after metastasis (see subdivision G 11 of § 8.6).

~~§ 6.20.~~ *§ 6.21.* Urology.

A. Covered conditions shall be limited to correctable urological conditions such as fistulas, dilatations, cysts, occlusions, or strictures of the urinary system. Also covered will be neurogenic bladder and ureteral reflux if associated with spina bifida or myelomeningocele, hypospadias and epispadias if complicated by other genitourinary anomalies, extrophy of the bladder or any congenital or acquired urological condition which is surgically correctable. Surgical exploration and treatment of pseudohermaphroditism and hermaphroditism as well as surgery for cryptorchidism are covered.

CONDITIONS NOT COVERED ARE ACUTE OR CHRONIC NEPHRITIS, NEPHROSIS, OTHER MEDICAL UROLOGICAL CONDITIONS AS WELL AS CIRCUMCISION ~~FOR PHIMOSIS,~~ *AND REVISION* KIDNEY TRANSPLANTS AND RENAL DIALYSIS.

B. Treatment services.

1. Clinic services shall be provided by an urologist.

2. Hospitalization shall be limited to evaluation and surgical intervention for covered conditions.

3. Ancillary services shall be limited to radiographic examination and laboratory studies, i.e., urine cultures, blood studies, urine studies, voiding studies, medication, and appliances, i.e., urostomy pouches, etc., necessary to treat covered conditions.

PART VII.
APPLICATION PROCESS.

§ 7.1. Application procedures.

A. Routine health department referral.

When a patient/family requests program sponsored services, they shall provide the local health department with information pertaining to residence, family size, financial status, chief complaint, previous medical treatment, and other related data as required for the program application and eligibility determination forms. These forms shall be sent to the program clinic which provides the treatment services for the child's diagnosed or suspected physical condition.

1. If no annual patient fee is required, an appointment for the first visit is arranged by the program coordinator at the earliest date possible.

If an annual patient fee is required, a check or money order made out to "Virginia Department of Health" with child's name noted shall be sent to the program coordinator. Once the fee is received, the first appointment will be sent to the family. Medical urgency, clinic schedules, availability of appointments, preauthorization, and any backlog of referrals determine the date of the initial appointment.

2. It is the applicant's responsibility to furnish the local health department representative with the correct financial data in order that he may be appropriately classified according to income level and to determine applicable charges for program sponsored services. Proof of income is to be presented at time of application. The documentation used to verify income shall be photocopied and attached to the eligibility determination form.

Any one of the following shall be used to verify income:

a. The most recent W-2 or W-4 withholding forms.

b. The most recent pay stubs.

c. The most recent income tax returns.

d. Verification of current wages from employer if applicant approves such inquiry in writing.

If the applicant does not provide proof of income, the patient will not be admitted to program sponsored services.

The State Board of Health "Regulations Governing Eligibility Standards and Charges for Medical Care Services" currently in effect shall be utilized in completing the eligibility determination form.

B. Emergency referral to the program.

In cases where an applicant is in need of emergency referral for outpatient services, the local health department shall contact the appropriate program clinic coordinator by telephone to set up an appointment. Eligibility for TREATMENT SERVICES shall then be established at the first clinic visit. Such patient is a "pending program sponsored patient" until the program application and eligibility determination forms with proof of income are sent by the local health department to the program clinic coordinator.

C. Between clinic admissions.

Patients can be admitted to the program between clinic sessions if all of the following criteria are met:

1. Patient was seen privately by the program physician for the specialty clinic.

2. Program physician orders medical care to be done on an outpatient basis. ~~Orders for~~ *Direct* hospitalization ~~will not be approved~~ *requires preauthorization by the program director* .

3. Program financial criteria have been met including the payment of the appropriate program annual fee.

4. Patient would be put in jeopardy to return to a second clinic to see the same doctor in a program setting due to distance of his home from the medical center (clinic location) or patient requires treatment before the next available local program clinic.

5. Approval has been received from program director prior to program admission.

The date of the program admission will be the date the patient saw the program physician in a private or outpatient setting. The program will pay for outpatient medical care ordered by the program physician at that time. All return visits to the physician shall be during a regularly scheduled program clinic.

D. Referrals for hospitalized patients.

1. Except newborns with a congenital anomaly requiring corrective or palliative surgery within 30 days from birth, children with acute rheumatic fever *and Kawasaki Disease* , and children in sickle cell disease crisis, no patient will be admitted to the program at or during hospitalization for treatment services. At time of hospital discharge, the hospital may refer the patient to the local health department for subsequent referral to the Children's Specialty Services Program and to the local primary care physician for follow-up.

2. Hospitals providing program authorized services may refer newborns, with a covered congenital anomaly that requires corrective or palliative surgery within 30 days from birth *for which hospitalization coverage shall not begin until 24 hours before surgery* , children with acute rheumatic fever *and Kawasaki Disease,* and children in sickle cell disease crisis, to the program by providing notification to the appropriate program clinic office within 24 hours after the initiation of the treatment services, excluding weekends. The program clinic coordinator will issue a written pending approval to the hospital.

In such instances the program clinic office will contact the family at the hospital and will initiate application form, eligibility determination form and application for hospitalization and forward a copy of the forms to the program for review and approval. Proof of income is to be presented at the time of application and is the responsibility of the patient/family. The annual patient fee will be collected by the program clinic coordinator. The program clinic office will forward copies of the forms to the local health department after they have been approved.

The hospital and the family shall be advised that the program will not assume any financial liability for the treatment of the patient until the director authorizes the treatment. In situations in which the program clinic office is unable to contact the family at the hospital, the local health department will be notified and shall be responsible for contacting the family and initiating the application and eligibility determination forms and collecting the annual patient fee.

E. Hospital referrals to clinic.

In cases where an applicant is referred to a program sponsored clinic from within the hospital (not a hospitalized case) by a program physician for a diagnosed case, the program clinic office will make the first appointment directly with the applicant and initiate referral forms at time of the first program sponsored clinic visit. If the child is not given an immediate appointment, the program coordinator will contact the family for the completion of the program application forms and is responsible for the submission of the forms to the local health department after the first clinic visit. In situations in which the program coordinator has difficulty in contacting or compliance of the family, assistance of the local health department is requested. Proof of income is to be presented by the family at time of completion of the financial eligibility form. The interviewer reviews presented evidence and attaches a photocopy of the evidence to the eligibility form.

§ 7.2. Eligibility procedures.

A. No applicant becomes a participant in program sponsored treatment services until he meets the conditions as described in subsection A of § 7.3. At time of referral, local health departments have a responsibility to screen the applicant for the following:

1. Age

2. Resident of Virginia

3. Suspected covered condition

4. Financial eligibility.

For all referrals, the program clinic coordinator reviews the application forms to determine if the applicant meets the criteria for admission for treatment services.

B. Medical eligibility is determined at time of the program sponsored clinic visit when the clinical director determines if the child has a covered condition. The program director reserves the right to reverse any decision. If the patient has a noncovered condition the patient will be discharged and referred to another medical resource. The original annual patient fee covers the examinations and diagnostic modalities used in determining the diagnosis.

C. After completed application and attendance at a program sponsored clinic, the family shall be given an explanation of treatment services and family responsibilities in the management and follow-up services.

D. For a newborn with a congenital anomaly requiring corrective or palliative surgery within 30 days of birth and children in sickle cell disease crisis or with acute rheumatic fever *or Kawasaki Disease* who have a covered condition at time of application and meet eligibility for treatment criteria, the annual fee is due within 14 days of contact by the program with the family. Program sponsored treatment services begin no more than 24 hours prior to the date the hospital notifies the program clinic coordinator of the hospitalization. NO APPLICATION FOR HOSPITALIZATION WILL BE APPROVED UNTIL THE ANNUAL PATIENT FEE IS PAID.

Upon discharge from the hospital, an appointment for follow up in a program sponsored clinic will go to the family with a copy to the local health department. Clinic reports and discharge summaries will go to the local health department and private physician.

E. Patients with Medicaid, Medicare, or CHAMPUS coverage will be accepted in the program.

F. Patients registered in a health maintenance organization (HMO) are not eligible to enter the program unless they are referred by the HMO primary physician and the HMO pays for care within its coverages.

G. For patients not receiving public assistance, the family's gross income and number of persons dependent upon this income are computed and compared against the health department income levels and charge schedules as promulgated by the State Board of Health. The patients are placed in an income category and charged a fee based on a sliding scale. The definition of income and family unit; income level schedules, and program annual fees are described in the effective State Board of Health "Regulations Governing Eligibility Standards and Charges for Medical Care Services."

H. Children's Specialty Services has the Right of Lien in favor of the Commonwealth of Virginia (see § 8.01-66.9 of the Code of Virginia). If an injury due to any type of accident has occurred in a child seeking or receiving treatment in any program for the results of said accident, such accident must be reported to Children's Specialty Services Program as follows:

1. Date of accident/injury;

2. Type of accident;

3. Location of accident; and

4. Name and address of attorney.

Children's Specialty Services turns this information over to the Office of the Attorney General for processing in accordance with the Code of Virginia.

At the conclusion of litigation, if a monetary award above the Medicaid Medically Needy Standard for One Person Household (resource limitation) has already been provided for the benefit of the child, such child may enter or remain on the program for management and follow-up, but must pay for all x-rays, laboratory work, tests, braces, appliances, drugs, hospitalization, and other treatment services until proof is provided that only the resource limitation remains in the award. The child then becomes eligible for full services if the family meets income requirements.

I. Infants and children with family income that meets current Medicaid requirements for coverage may receive clinic services upon completion of the program application. These patients shall be referred to Medicaid, and the program shall not be a payor of ancillary or hospitalization services until the appropriate Medicaid application has been processed for acceptance or denial.

§ 7.3. Approval procedures.

A. To be admitted for program sponsored treatment services, the child shall meet the following conditions:

1. Shall be a resident of the Commonwealth of Virginia. Further, there shall be reasonable assurance that the child will remain a resident long enough to benefit from treatment.

Aliens are eligible for program sponsored services if they otherwise meet eligibility requirements.

2. Shall meet the definition of a handicapped child as defined in Part I.

3. Shall be a member of a low income family as defined in Part I except as provided for in §§ 6.4 C, ~~6.5~~ *6.8* C, 6.9 C, 6.18 C, and 8.6 F due to the long-term and exhaustive expense of the treatment and management.

4. Shall have provided proof of income and paid the annual fee aaccording to the income category established by the family's gross income and number of persons dependent upon the income.

5. Shall have received services which have been authorized by the program prior to the

commencement of treatment. Exceptions are described in subsections D.1 and D.2 of § 7.1.

PART VIII.
THE TREATMENT PROCESS.

§ 8.1. Preauthorization of services.

Treatment services as defined in Part I shall be preauthorized by the director. These services are available only to those children who have been accepted for treatment services and only for care arranged for by the Children's Specialty Services Program.

§ 8.2. Clinic services.

Program sponsored clinics, central and field, are located throughout the Commonwealth of Virginia in university medical centers, community hospitals, physicians' offices, and local health departments. Program sponsored central clinics, located in or near major hospitals, provide case finding, treatment, hospitalization, surgery, and follow up. Program sponsored clinics provide a multidisciplinary approach to the management of the patient.

The members of the clinic team vary depending upon the diagnosis, needs of the patient and the availability of professional resources in the geographic area. The team usually includes a nurse, medical social worker and educational consultant in addition to the medical specialists and therapists.

A. The clinical director shall be a board eligible or certified specialist or provide proof of extensive subspecialty training if no board certification is available for a subspecialty. He shall attend all program sponsored clinics, make all medical decisions and perform or assist with all surgeries.

B. Every clinic is managed by a program coordinator or a public health nurse designated by the local health department whose responsibilities include the following:

1. Reviews referral forms, determines program eligibility and initiates appointment for the visit.

2. Coordinates patient services within the clinic, with medical and paramedical services, and with public health nurses in the local health departments.

3. Initiates basic teaching of the patient and family regarding the diagnosis and recommended treatment, such as use of appliances, and equipment, medications, diet and exercise.

4. Provides counseling and support in the clinic setting.

5. Is responsible for distribution of a written clinic report for each patient to the local health department, private physician, and program central office.

6. Coordinates the patient's hospital admissions.

C. Medicaid patients referred to the program shall be treated and managed in the program clinics. Medicaid patients cannot be referred to the program for braces, prostheses, or hearing aids only, as ordered by the private specialist. They shall be admitted for full specialty care. This does not preclude patients from having a primary care physician.

D. Quality of care dictates that a child cannot be followed in two or more separate clinics of the same specialty or by a private specialist and the same children's specialty services clinic.

§ 8.3. Hospitalization.

A. The program provides inpatient hospital services for each sponsored program as part of the total treatment at hospitals providing program authorized services.

B. Patient and family responsibilities.

1. The family shall agree to assign all hospitalization insurance benefits to the hospital and clinical physician.

2. The family is responsible for medical care not covered in the program specialty clinic and for hospitalization for the specialty in facilities other than those under contract with the program. (Exception is sickle cell disease crisis. See subsection B.2 of § 6.16.)

3. The family is responsible for medical services for the covered condition, either hospitalization or outpatient, that occurred before the patient was admitted to the program.

4. The family is responsible for emergency room visits that the parents initiate unless the child is admitted to the hospital directly from the emergency room.

C. Hospitalization to establish a definitive diagnosis.

If hospitalization is indicated to establish a definitive diagnosis and develop a plan of treatment for the individual, such hospitalization may be authorized, but it SHALL BE preauthorized, subject to the following limitations:

1. That reasonable evidence of the existence of a covered condition be documented.

2. That the applicant be otherwise eligible for treatment services by meeting the criteria established in subsection A of § 7.3.

3. That the procedures performed in the hospital directly relate to the covered condition.

4. That the definitive diagnosis can only be established

by hospitalizing the patient.

5. That the hospital stay shall not exceed three days.

D. Hospitalization for acute exacerbation of covered conditions (see subsection A.1.d of § 11.5).

Preauthorization shall not be required whenever a participant requires emergency hospitalization for an acute exacerbation or complication of covered conditions.

§ 8.4. Nutrition services.

Patients at risk for nutrition disorders will be screened and referred as needed to nutritionists for counseling and follow up and referral to funding resources for nutrition supplements. Certain nutrition additives, i.e., MCT oil and Polycose, are supplied by the program. Special formula is not provided.

§ 8.5. Drugs.

A. Drugs related to the covered condition are provided at no additional charge to program sponsored patients after the annual patient fee has been paid except for Medicaid patients (see subsection B of § 8.5). These drugs are obtained from the Department of Health, Bureau of Pharmacy Services. The program sponsored clinic initiates the initial drug order, and the local health departments are responsible for reorders of drugs.

If the clinical director makes a change in the drug order in between clinic visits due to a contact with the patient or family, he will immediately contact the program coordinator and complete a new prescription to be processed by the program coordinator to the appropriate sources.

B. Medicaid patients will be given regular prescriptions to obtain drugs from a pharmacy of their choice. The only exception is medications that cannot be obtained in local drug stores.

C. When patients in the neurology program reach the age of 21 years and are still active in the program, they will be closed to the program. However, they have the right to remain in the program sponsored outpatient program if they agree to pay the annual fee, the cost of drugs, other ancillary services, and hospitalization. The local health department will continue to order drugs from the Bureau of Pharmacy Services but the patient shall pay the local health department the department's cost for the drugs.

§ 8.6. Follow up/aftercare.

A. Follow-up services are limited to the specialized medical care directly related to the diagnosis and treatment of the covered handicapping condition.

B. To promote continuity of care, clinic reports and hospital discharge summaries indicating findings, treatment and recommendations are sent to the child's local physician and the local health department.

C. The public health nurse in the local health department is a vital link in the Children's Specialty Services Program's nursing follow up. They assist the patient and family in the udnerstanding of the child's physical condition and follow up of medical recommendations.

D. Parents or guardians have definite responsibilities to cooperate with the program sponsored clinic, the clinic director, the program office and the local health department. Quality and continuity of care are not possible without the direct participation of all the above components. These responsibilities include but are not limited to the following:

1. TO KEEP ALL APPOINTMENTS FOR CARE. SUCH APPOINTMENTS MAY BE FOR CLINICS, ANCILLARY SERVICES, OR HOSPITALIZATION;

2. TO FOLLOW INSTRUCTIONS FOR HOME CARE which may include the wearing of an appliance, bed rest, special diets, medications, or home therapy;

3. To supply that part of the treatment which has been agreed upon between the clinic director and the parents or guardian which may include purchase of shoes, appliances, medications, special therapy;

4. To provide general health care for the child as the program provides only specialized care related to the handicap;

5. TO COOPERATE IN THE COLLECTION OF ANY HEALTH INSURANCE which is available for the services provided; and

6. To accompany the child to clinic or provide a knowledgeable guardian to accompany the child.

E. Patient eligibility for services SHALL BE REDETERMINED EVERY 12 MONTHS at the anniversary date of the first program clinic visit or the date when authorized treatment began for hospitalized patients (see subsection B of § 11.1). The recertification requirements are the same as subsection A.2 of § 7.1 and the patient shall meet the conditions set forth in subsection A of § 7.3.

The annual patient fee is due and payable at or before each anniversary date. If the proof of income and the annual patient fee, if indicated, are not provided within 30 days of the anniversary date, the patient will be discharged and referred to other medical sources for further care.

F. Patients who do not meet the definition of low income family (see Part I) at the time of their annual

financial recertification shall be discharged from the program except for the patients in the following situations who will remain in the program until discharged by the clinical director:

1. Undergoing multistaged surgery and at least the first surgery has been accomplished;

2. Undergoing orthodontic treatment which has started;

3. Have multisystem involvement of complicated conditions in a program in which one or more surgeries have been accomplished and further surgeries are contemplated to rehabilitate the child's condition;

4. Have an underlying condition which leads to multisystem involvement, in which surgery has been accomplished in at least one specialty program. The patient can remain open to all specialty programs treating the condition and multisystem involvement. Full program services will be provided in the specialty program(s) in which surgery has been accomplished. Outpatient services only will be provided in the other specialty programs.

Patients in ~~nonlow~~ *other than low* income families who are allowed to stay in the program shall attend program sponsored clinics on payment of the annual patient fee. Such patients shall be responsible for the cost of medical services directly with the provider. After presenting evidence of medical expenses incurred, not covered by insurance, for the patient in an amount equal to 5.0% of the family's gross annual income, the patient will then become eligible for all indicated treatment services until the next annual financial recertification.

G. Patients remain eligible for treatment services until one of the following occurs:

1. Patient has received maximum benefit as determined by the clinical director;

2. Patient, parent or guardian requests transfer to another medical resource;

3. Patient, parent or guardian is not interested in further service;

4. Patient reaches age 21 except for patients in the cystic fibrosis or hemophilia program and patients covered in subsection C of § 8.5;

5. Patient moves from Virginia;

6. Patient becomes ineligible financially ;

7. Documented lack of compliance with clinic recommendations is in participant's record;

8. Family fails to pay annual patient fee;

9. Patient enters a HMO which covers the specialty care;

10. Other good and sufficient reasons such as disruptive and abusive behavior including verbal or physical are documented; or

11. Patient is diagnosed as having a malignant tumor which is inoperable or terminal.

H. If, at time of closure to program sponsored treatment services, the patient still needs health care for covered handicapping physical condition, the patient will be referred to another source.

I. When patients are referred to a private source for care, the program personnel will no longer participate in their care management or health/medical care. This includes patients who choose private care from physicians who provide care to program sponsored patients in program operated/sponsored clinics.

J. In program sponsored clinics, private patients may be scheduled and seen by the clinician after the program sponsored clinic is over. Program or local health department personnel shall not be involved with these patients. The Children's Specialty Services Program shall not incur any financial liability for these private patients.

§ 8.7. Transfer of patients.

Transfers of patients geographically and programmatically shall be in accordance with existing policies.

PART IX.
VARIANCES.

§ 9.1. General.

The commissioner is designated to act for the board in granting variances to this plan. He may, however, delegate the authority to grant variances to a panel (see § 9.2). It should be understood that variances will not be approved except in clearly unusual circumstances for children who are otherwise enrolled and where the additional service augments and provides for a better rehabilitative outcome.

A variance request may be made by the patient, the patient's family or guardian or a physician (see §§ 9.3 and 9.4).

§ 9.2. Variance panel.

The commissioner will appoint a departmental panel to hear requests for and grant variances to the provisions of the plan.

A. The variance panel shall be convened as required.

B. Any two members of the variance panel may act

upon and, if both members concur in writing, grant requested variance when expeditious action is required to ensure quality care for a registered Children's Specialty Services' Program *or Child Development Services Program* participant.

§ 9.3. Form of variance requests.

A request for variance may be either verbal or in writing.

A. A written request shall be used to seek a variance when a delay in providing a service not covered in the plan will not jeopardize the health or cause the patient undue suffering. The variance panel shall respond to a written request within five working days of receipt in the central office. These requests for variance shall be addressed to the *appropriate* director ; ~~Division~~ of Children's Specialty Services *Program or Child Development Services Program* .

B. A verbal (telephonic) request for variance may be used during normal working hours in cases where the delay associated with the written request would jeopardize the health or cause undue suffering of the participant. This request shall be driected to the *appropriate* director ; ~~Division~~ of Children's Specialty Services *Program or Child Development Services Program* , who will contact the variance panel members, explain the situation, obtain a decision and relay the panel's decision to the person requesting the variance.

1. The *appropriate* director ; ~~Division~~ of Children's Specialty Services *Program or Child Development Services Program* , shall prepare a memorandum for record (MFR) summarizing the case and the action taken. The MFR shall be attached to the patient's hospital bill when it is forwarded to the hospitalization accounts section for payment *for those persons in the Children's Specialty Services Program. The MFR shall be attached to the patient's bill when it is forwarded to the accounts section for payment for those persons in the Child Development Services Program* . Copies of the MFR shall also be forwarded to members of the panel, and such other parties as the panel deems necessary.

C. A variance is not required when the procedure in question is required to treat a complication of the preauthorized covered condition.

§ 9.4. In those rare instances when treatment must be initiated and time does not permit the physician to prepare a request for variance (such as at night or on weekends), he may make a retroactive request. Such requests shall be submitted within five working days following the commencement of the treatment. The physician, the patient's family and the provider facility shall be made aware of the possibility that the variance may not be granted.

PART X.
APPEALS.

§ 10.1. General.

The commissioner will appoint a departmental panel to review and make recommendations on all appeals filed under this section.

A. If an individual is denied services made available in this plan, and he believes that he is entitled to these services, the individual has the right to an appeal which may be made by that individual or a represenative to the *appropriate* director ; ~~Division~~ of Children's Specialty Services *Program or Child Development Services Program* , within 30 days of the denial of service. The program shall not limit or interfere with the individual's freedom to present an appeal. The individual shall be informed of the right to an appeal and the method by which an appeal may be filed including time limits and the requirement to present substantial evidence.

B. The *appropriate* director shall review each appeal and shall make written recommendations within 15 working days. These recommendations, along with any other documentation relevant to the appeal, shall then be forwarded to the departmental panel.

C. The departmental panel will review and make recommendations regarding the appeal.

D. The commissioner or deputy commissioner shall make the final decision within 45 days following the date on which an appeal is filed. The individual making the appeal shall be informed of this decision in writing.

E. The Division of Children's Specialty Services will not assume any financial liability, directly or indirectly for treatment services while the appeal is pending.

§ 10.2. Appeals shall be submitted in writing. The Division of Children's Specialty Services staff shall assist any individual who wishes to file an appeal. The appeal shall contain factual information which, in the opinion of the individual, is the basis for their appeal.

§ 10.3. When the appeal process has been exhausted and the individual desires further review, the individual shall be informed of the right to pursue judicial review.

PART XI.
FINANCIAL PROCEDURES AND REGULATIONS.

§ 11.1. Source of payment funds.

A. General.

Funds used in administration and operation of the Division of Children's Specialty Services are received from the federal government and from state funds appropriated by the legislature.

B. Annual patient fee.

If the patient's family gross income is such that an annual fee is required, the fee will be paid at the time treatment services are initiated and every 12 months therafter as long as the child is receiving program covered services. The financial eligibility and charges are based on the State Board of Health "Regulations Governing Eligibility Standards and Charges for Medical Care Services."

If the child enters more than one specialty program, he maintains the anniversary date for financial eligibility screening of the first specialty program entered. There is only one annual patient fee no matter how many specialty programs that the patient enters. If the one annual patient fee is not paid, the patient is discharged from all specialty programs. If the patient is medically discharged from the first specialty program but remains open in other specialty programs the same anniversary date remains for the other specialty programs.

If more than one child in a family enters the program, each child receives the same anniversary date for financial eligibility screening as the first child in the family. If two children in a family are in the program, there are two annual patient fees. There is no further annual patient fee if three or more children from one family are entered into programs.

C. Insurance.

THE COLLECTION OF PRIVATE HEALTH INSURANCE IS THE RESPONSIBILITY OF PROVIDER FACILITIES FOR TREATMENT SERVICES OF PROGRAM SPONSORED PATIENTS. Parents/patients are expected to report the extent of their health insurance coverage and to cooperate in the collection of insurance funds. If the insurance company makes direct payment to the parent or legal guardian, such benefits will be assigned to the provider of the services. Insurance including outpatient and major medical will be used for all patients with such coverage. The providers will bill the insurance companies.

The program may pay only when (i) the insurance company denies reimursement for a service covered under the insurance company contract to the provider facility, or (ii) bill or a portion thereof is not covered by health insurance. The program payment shall not exceed the Medicaid or the program established rate.

D. Medical assistance programs; Title XIX (Medicaid), Title XVIII (Medicare), and CHAMPUS.

Medicaid, Medicare and CHAMPUS will be used as the source of payment for patients covered under these medical assistance programs. Payments by Medicaid, Medicare and CHAMPUS will be collected by provider facilities for treatment services of program sponsored patients. The PROGRAM WILL NOT PAY ANY PORTION OF THE BILL WHICH IS NOT COVERED BY MEDICAID OR MEDICARE UNLESS THE COVERED SERVICE IS NOT REIMBURSABLE BY MEDICAID OR MEDICARE. The program will not pay a deductible that would normally be the responsibility of the patient.

§ 11.2. Rates of payment.

A. Physician services.

Board certified or eligible specialists are reimbursed for provision of clinic services pursuant to contract. The program will not reimburse physicians for professional services provided during hospitalization or surgery on program sponsored patients, but the physicians can pursue health insurance reimbursement.

B. Appliances.

The program may provide payment for appliances including hearing aids and repairs, orthopedic braces and repairs, eye glasses, artificial eyes, dental appliances and prostheses, and orthopedic prostheses. Providers of these services shall be program approved vendors. Rate of payment shall not exceed the usual and customary charge per unit or per service provided.

C. Dental services.

Dentists are reimbursed on a contractual basis.

D. Inpatient hospital care.

Hospital care shall be provided by hospitals which agree to accept payments for care based on Medicaid allowable cost determinations. (See § 3.3.)

E. Ancillary services.

Services such as speech therapy, occupational therapy, physical therapy, hearing therapy, drugs, medical supplies, radiographic examinations, and laboratory studies shall be provided in accordance with policies and procedures of the department and shall be paid at the rate established by the Department of Medical Assistance Services (Medicaid) for such services using the Physician's Current Procedural Terminology (CPT) code for each service.

§ 11.3. Limitations of payments.

A. Payment in full.

Payments for authorized medical care will be limited to those providers of service who accept the amounts allowed by the program as payment in full. Such providers agree not to make any charge to or accept any payment from the patient or his family for services authorized by the program.

B. Nonrelated services.

Payments approved by the program shall be limited to

medical treatment related to the covered conditions. The program provides only specialized care and does not provide general medical care.

C. Limitations of service.

Payment shall be made for treatment services only for program sponsored patients and only from contract or approved providers.

Care provided by noncontract or nonapproved providers *, whether in or out-of-state,* or care not authorized by the program is not a liability of the program.

The program will only pay for treatment services given by providers licensed by the Commonwealth of Virginia except the out-of-state providers with which the program has contracts.

§ 11.4. Prerequisite for payment.

Payment will be made ONLY for services recommended in the treatment plan provided by the clinical directors, and approved by the program director.

§ 11.5. Billing requirements.

A. The program will only pay a hospital bill based on the fulfillment of ALL of the following criteria:

1. Written authorization for a specified number of days shall be APPROVED BY THE PROGRAM DIRECTOR PRIOR TO HOSPITLIZATION. Exceptions:

a. Newborns with a congenital anomaly requiring corrective or palliative surgery within 30 days from birth *for which hospitalization coverage shall not begin until 24 hours before surgery* (see subsection D of § 7.1).

b. Acute rheumatic fever (see subsection B.2 of § 6.2 and subsection D of § 7.1).

c. Sickle cell disease crisis (see subsection B.2 of § 6.16 and subsection D of § 7.1).

d. Acute exacerbation or complication of a covered condition (see subsection D of § 8.3).

2. Hospitalization shall be for an authorized service or procedure necessary to correct or mitigate a covered handicapping condition.

3. Discharge summary shall be received by the program's clinic office within 30 days of discharge date.

4. Itemized statement shall be submitted to the program by the hospital with the form UB-82 HCFA within 90 days of discharge date or within 30 days of denial by third party payment source if over 90 days from service date unless adequate written justification is provided by the hospital. No itemized statement will be considered for payment prior to the receipt of the discharge summary.

5. If authorization indicates coinsurance with a third party payor, the UB-82 HCFA shall indicate amount of all third party payment collected by the hospital. The Children's Specialty Services Program shall only be liable for the difference between what the third party payor pays and what the program would be liable for if it was the sole payor.

If the third party payor denies payment of any portion of the bill, the denial letter shall be attached.

6. Hospitalization shall be a maximum of 21 days per hospital admission per specialty program. This shall run concurrently with any other insurance coverage, including Medicare and Medicaid.

7. Hospitalization shall be a maximum of 42 days in a treatment year per specialty program which run concurrently with any other insurance coverage. A treatment year is defined as 12 months from date the program authorized treatment began. It reoccurs every 12 months thereafter as long as the patient is authorized to receive program sponsored services.

8. If a longer period of time is required beyond that of the original authorization, a "Request for Extension of Hospitalization" shall be received by the program at least 14 calendar days after the expiration date of the original authorized period.

B. Bills for ancillary services shall be presented for payment with the following information:

1. Name of child

2. Date of service

3. Amount of insurance or other third party payor funds received for the service

4. Itemized statement

5. Written authorization by the program.

C. ~~Application for Orthopedic Appliances and Special Services,~~ *Approval for Purchase* which has been preauthorized (see Part I) shall be attached to certain bills for appliances, therapy, supplies, and testing.

D. An invoice reviewed by the program coordinator shall be used for itemized statement of multiple ancillary services per child, i.e., laboratory work, x-rays, EKG, EEG.

E. Bills should be presented within 90 days of the date of the ancillary service or denial by a third party payor. Bills submitted subsequent to 90 days shall be justified for

acceptable extenuating circumstances. NO BILL MAY BE SUBMITTED FOR PAYMENT IF MORE THAN ONE YEAR HAS ELAPSED SINCE THE LAST DATE OF SERVICE.

PART XII.
CHILD DEVELOPMENT SERVICES PROGRAM.

§ 12.1. Description of program.

The Child Development Services Program consists of (i) a system of child development clinics located to serve all regions of the Commonwealth of Virginia and (ii) the program administration located in the Division of Children's Specialty Services, Virginia Department of Health. The clinics are pediatric specialty centers that serve children suspected of developmental disorders such as mental retardation, hyperactivity, learning problems, childhood behavioral disorders, developmental delay associated with primary sensory or physical disability or a combination of these problems. Early identification and individual planning for developmentally impaired children require the interdisciplinary expertise of each clinic team of professionals--the pediatrician, public health nurse, clinical social worker, education consultant and clinical child psychologist. The program management staff serves at the state level to guide, develop and advocate for services and programs which will enhance outcome for developmentally impaired children and their families. Program staff throughout the Commonwealth participates in interagency and community initiatives to promote healthy development of children.

§ 12.2. Scope and content.

A. Mission.

The mission of the Child Development Services Program is to improve the availability and accessibility of comprehensive, interdisciplinary developmental services to promote the optimal physical, social and emotional development and well-being of children.

B. Scope.

The child development clinics provide pediatric services in the specialty area of developmental and behavioral pediatrics. This health care field specializes in the diagnosis and treatment of developmental problems which include delays in maturation or deviant maturation in physical, social, mental or emotional development, to the extent that there is a negative impact on the child's ability to adapt to or cope with the typical environmental demands as expected for chronological age.

C. Target population.

The population served is children ages birth to 21 who evidence or are suspected of experiencing developmental problems. This includes children who are believed to be at risk for problems based on the presence of factors associated with significantly increased risk for developmental disorders. Priority is given to children who have limited access to private health care options because of such barriers as low family income, lack of health insurance, lack of available private care, etc. Young children are given priority based on the current practice of promoting early intervention for best outcome and prevention of more complex problems.

D. Goals.

1. To improve the availability and accessibility of comprehensive, interdisciplinary developmental services to promote optimal physical, social, mental and emotional development and well-being of children.

2. To improve the early identification of children throughout the Commonwealth who are at greatest risk or in need of developmental services.

§ 12.3. Patient services provided.

A. Early identification and developmental screening.

Child development clinic professional staff provides screenings for identification of children with developmental disorders. Screenings are provided in many different situations such as in day care centers or preschools, health fairs, health department clinics or Head Start Programs. Screening may also be the first response to a parent phone call to the clinic, if the need or appropriateness of a referral for full services is questionable. The process of the developmental screening is detailed in § 12.6 A.

B. Comprehensive interdisciplinary evaluation.

An interdisciplinary evaluation includes (at a minimum) a pediatric examination, psychological examination, social work interview, public health nurse evaluation and may include an educational evaluation. A variety of specialist consultations, including neurological, psychiatric, endocrine, ophthalmological, otological, audiological, nutritional, and other health-related services are obtained as indicated by the child's total health needs, and are a part of the child's comprehensive diagnostic evaluation. The process of the comprehensive evaluation is detailed in § 12.6 B.

C. Partial evaluation.

Any evaluation which has fewer components than listed for the "Comprehensive Evaluation" may be considered a "Partial Evaluation." Partial evaluations may be requested by a referral source or selected by the clinic team based on need or availability of data from another source.

D. Treatment planning/care coordination.

Comprehensive or partial evaluations may result in a number of treatment goals and recommendations for

further treatment services, diagnostic services or other types of intervention and follow-up. Each of the clinic team members assists the child's family in:

1. Identifying the types of services that will be beneficial to the child or family in adapting to or coping with identified problems, and locating appropriate resources where these services can be obtained.

2. Following up at a later time to determine if recommendations were followed and if services were of value to the child or family in achieving goals.

This process or treatment planning and follow-up is called care coordination (case management). Typically one member is designated as the care coordinator for each child evaluated. The process of care coordination is detailed in § 12.6 D.

E. Consultation.

Consultation involves the rendering of professional advice for a specific child or family based on information provided by the clinic's evaluation or treatment services. The consultation is typically with another professional or agency, but may also be a discussion with one or more family members to further reinforce their understanding of evaluation results or intervention plan. The consultation process is detailed in § 12.6 E.

F. Intervention services.

Direct services are provided by one or more members of the clinic team. The intervention services of the clinic may be medical, psycho-social, educational or interdisciplinary. Services offered at each clinic location vary according to the expertise of the professional staff and the overall goals and objectives of the current program.

§ 12.4. Organizational relationships between the Child Development Services Program and:

A. Local health departments.

The program works closely with the local health departments to provide care to developmentally disabled children. This partnership covers activities of case finding (identification and screening), treatment planning, referral and care coordination. Space and support are provided in some locations by the local health departments for child development clinics to conduct field or satellite clinics periodically. Health Department and program staff provide periodic services to each other in staff development and program development/evaluation.

B. Division of Maternal and Child Health-Genetics Disease Program.

The divisions have an agreement providing for cross referral to the services of each specialty. The program provides evaluation, care coordination and counseling to children with inborn errors of metabolism and other types of genetic risk conditions.

C. Other health care providers.

1. Primary care physicians. Pediatricians and family physicians are major source of referrals to the program. The program sends reports summarizing services and recommendations to the child's primary care physician to enhance medical management and to promote continuity of care between the clinic and the physician.

2. Academic medical centers and universities. The program provides personnel and support to operate clinics held in academic medical centers and universities in the Commonwealth. The centers and universities provide space and other routine support to conduct the clinics. The data required for program monitoring and evaluation are collected by the clinic personnel and provided to the program.

D. Other state and local agencies and programs.

1. Department of Education. The Virginia Department of Education provides education consultants to the program, who serve as integral members of the teams. Each consultant position is administered by the local school division in the area where the clinic is physically located, and the consultant functions as a direct liaison between the clinic and the public schools. The program also cooperates with the Division of Special Education Programs and Services in the development of programs for handicapped children required for compliance with Public Law 94-142 and 99-457.

2. Department of Social Services. The program cooperates with the Department of Social Services in providing programs for the continuing education and development of day care personnel. The Department of Social Services administers local programs in child protective services and alternative care for children, which are primary sources of referrals to the clinics.

3. Department of Mental Health, Mental Retardation and Substance Abuse Services. The program coordinates with the Department of Mental Health, Mental Retardation and Substance Abuse Services Early Intervention Programs in the early identification, screening, evaluation and treatment of very young children with developmental disorders. In addition, the Department of Mental Health, Mental Retardation and Substance Abuse Services serves as the lead agency for Public Law 99-457, and the program coordinates efforts to comply with the regulations of Part H of the statute.

4. Headstart programs. The program cooperates

through cross referrals with community Headstart programs in the early identification, screening, diagnosis and treatment of preschool-age children with developmental disorders. The program also provides statewide Headstart consultants who provide technical assistance in program development and evaluation.

5. Day care programs. The program serves as a resource to day care programs for the identification, screening, diagnosis and treatment of preschool children with developmental disorders. Programs of continuing education for day care personnel are also provided in coordination with the Department of Social Services.

§ 12.5. Application process.

A. Admission criteria.

To be eligible for the services of the clinic the individual must meet the following criteria:

1. Age from birth to 21 years.

2. Resident of the Commonwealth of Virginia.

3. Suspected or known developmental delay or disorder, behavioral disorder, learning disorder, mental retardation, neuropsychological disorder or presence of severe or multiple risk factors for these conditions.

B. Routine referral.

Referral for clinic services may be based on a telephone call, personal contact or written request. Referrals are accepted from all sources including parents, guardians, public and private agencies, primary care physicians and other health care providers, health department clinics, and schools. Notwithstanding the provision of § 54.1-2969 of the Code of Virginia, in order for a child to receive services under the Child Development Services Program, informed consent must be provided by the child's parent or legal guardian.

1. Upon referral, an application packet is delivered to the child's guardian. The application contains material including an informed consent form permitting the child to receive services, and release of information forms to be signed by the legal guardian so that medical, school and other records may be obtained. Information about the clinic's fees and sliding scale is also provided, and the parent/guardian is requested to provide information needed to determine income level for the purpose of setting fees for services. The clinic provides assistance to parents in completing the application material as needed.

2. When the completed application is received by the clinic, requests are sent out for records and material which may be released according to parent/guardian consent.

3. The administrative director or designee uses the information provided to determine income level eligibility which in turn determines the fees which will apply for any services provided. Billing occurs only after the initial evaluation is completed (see § 12.7).

4. The clinic nurse or designee reviews the completed application, consults with other professional staff as appropriate and assigns a first appointment based on the priority ranking guidelines.

C. Emergency referrals.

In certain cases the administrative director may determine that a child is in need of clinic services on an immediate or emergency basis. In such a case the administrative director may waive the application process and schedule the first appointment with the consent form signed by the parent or legal guardian.

D. Program referrals.

In certain cases, children receive services through an agreement between the program and another agency or program. For example, children in a Headstart program may be screened for developmental problems by clinic personnel. In all cases, the written agreement specifies the referral/application process and the agreement contains at least the following:

1. Assurance that no child is seen by clinic personnel for a service until a consent form is signed by the parent/legal guardian.

2. Assurance that only children who meet the eligibility criteria receive services.

3. A fee schedule for the services which will be provided. If families are held responsible for all or part of the fees, then the fees will be based on the income level eligibility of the child's family to be determined prior to delivery of services.

§ 12.6. Evaluation and treatment process.

A. Developmental screening.

A screening consists of:

1. Collecting a brief health and developmental history including pertinent medical history of immediate family members.

2. Surveying the growth and developmental status of the child in physical, mental and social-emotional areas. This survey is typically conducted using a standardized screening instrument (e.g., Denver Developmental Screening Test) which utilizes parent interview and direct observation of the child.

3. Identifying the presence of significant risk factors associated with the environment in which the child is developing.

The results of a screening are generally an estimate of the child's developmental status with reference to expected norms, a profile of the significant risk factors detected and a recommendation as to whether or not more comprehensive services may be needed. Recommendations for further services include suggested resources available in the locality for the child and family.

B. Comprehensive evaluation.

The basic components of a diagnostic evaluation are:

1. Health and developmental history. Attention is directed to the maternal medical history, the obstetric history, and perinatal course. Pertinent medical history of the immediate and extended family is obtained.

Specific details concerning growth and development from early infancy to the present age are collected. This information includes environmental adaptation and developmental landmarks. The clinic nurse is responsible for obtaining this information or assuring that it is available in the records.

2. Pediatric examination. Attention is directed toward the total health of the child, including:

a. A complete physical examination including assessment of gross and fine motor neurological functions in relation to age-appropriate standards.

b. Observation for behavioral manifestations of suspected specific medical disorders or clinical syndromes.

c. Specific consultations as required for a complete medical evaluation such as neurological, psychiatric, audiological, etc.

3. Social work assessment. Information is obtained concerning the family system. The goals of the psycho-social assessment are to:

a. Understand the family system - how it functions as the context in which the child is developing, the impact of the system on the child's adaptation and the impact of the child on the family system.

b. Identify the needs of the family system which will contribute to the most positive outcome for the child and family as a whole.

4. Psychological examination. The psychological evaluation generally involves one or more sessions of observation, testing, and clinical interview with the child, as well as parent interview. The goals of the psychological evaluation are to:

a. Describe cognitive development and the intellectual profile.

b. Describe the emotional development, behavioral adaptation and personal motivation of the child.

c. Identify and describe the presence of significant deviance or dysfunction in any of these areas.

d. Identify areas of strength which may be significant in planning services.

5. Education assessment. Attention is directed to understanding the variances in the child's learning profile, intellectual resources, academic achievement, and learning style. The child's adaptation to the academic setting (behavioral, attitudinal) is also assessed as an important factor which contributes to success in school.

6. Team assessment. All members of the clinic team review family and referral source concerns, previous evaluation or intervention information and the summary of an earlier screening if this occurred.

7. Consultations. For individual patients, consultations and studies may be conducted as needed based on the impressions of the core team (e.g., speech/language evaluation, x-rays, chromosomal studies).

8. Interdisciplinary staffing conference. The team conducts a conference to share and integrate evaluation findings among team members and with previous evaluation material. During the staffing any additional studies are planned and appropriate diagnoses are determined.

9. Parent interpretive meeting. One or more members of the team meet with the parents/guardians to share results, discuss interpretations of the findings and plan intervention as needed.

10. Reports. Each team member prepares a detailed report and contributes to a summary report to share with others as desired by parents/guardians. No material is shared without written consent of the legal guardian. Consent specifies who may receive specific material.

C. Intervention services.

Intervention services consist of professional staff counseling children or parents. Treatment services are provided with the intent that such services are short term, supportive and focused toward symptom reduction. In-depth mental health treatment and comprehensive medical treatment services are not provided. For each intervention service provided there is a written treatment

plan with stated goals and strategies, periodic written assessment of progress toward goals, revision of strategies as needed, and plan for termination of the intervention which includes an estimate of the length of treatment.

Intervention services within the Child Development Clinics include the following:

1. Medical follow-up studies and treatment provided in consultation with the child's primary care physician, e.g., drug titration, nutrition counseling, etc.

2. Behavior modification and management.

a. Family.

(1) Instruction in ways to enhance child development.

(2) Behavior management techniques.

(3) Short-term counseling to address, e.g.

(a) Family guilt over having a handicapped child.

(b) Parent-child relationship problems.

b. Child.

(1) Behavior modification.

(2) Short-term counseling.

c. Group.

(1) Parent or child groups which are primarily therapeutic in nature.

(2) Parent or child groups which are primarily educational in nature.

(3) Multifamily groups which are primarily supportive.

D. Care coordination.

1. Once an applicant has been accepted for service, the administrative director assigns the case to one of the clinical staff who acts as care coordinator during the delivery of patient services in the clinic. The care coordinator is responsible for assisting the patient or guardian with the process as needed.

2. The care coordinator typically participates in the interpretive session with the parent/guardian and one or more team members. The goals of this meeting are to:

a. Assist parents to understand the findings of the comprehensive evaluation and the diagnostic impressions of the team; and

b. Plan intervention services for the child.

3. The care coordinator facilitates implementation of the intervention plan. This may mean making referrals to other agencies, programs, etc., requesting consultation from other team members, setting up appointments for intervention services at the clinic, and serving as a contact person at the clinic for the family and others.

4. The care coordinator also conducts a follow-up after a period of time (usually four to six months) to assess if the intervention plan was implemented, if recommended services were available and were beneficial, and if the patient has further needs from the clinic.

5. The recommendation for reevaluation is occasionally included in the intervention plan. The decision to reevaluate is based on the health or developmental benefits for the child. Parents and other referral sources may also request reevaluation based on the need for updated information about the child's status.

E. Consultation services.

Consultation involves the rendering of professional advice for a specific child or family based on evaluation/intervention information. Consultation may be of several types:

1. Discussion with a referral source or service provider regarding the comprehensive evaluation and/or the recommendations for intervention.

2. Further in-depth discussions with family members to further or reinforce their understanding of the evaluation results or intervention plan.

3. More detailed interaction or work with a referral source or service provider to develop, coordinate or evaluate an ongoing intervention.

§ 12.7. Financial regulations and procedures.

A. Eligibility.

Family financial eligibility is determined at the time service is provided based upon proof of income provided by the family. The family's gross income and number of persons dependent upon that income are computed and compared against the health department income levels and charge schedules as promulgated by the State Board of Health. The patients are placed in an income category and charged a fee based on a sliding scale.

The definition of income, family unit and income level schedules are described in the effective State Board of

Health "Regulations Governing Eligibility Standards and Charges for Medical Care Services." Those families receiving food stamp benefits or Medicaid are automatically eligible for services at no cost to the family.

B. Fees for services.

1. The program charges fees for the comprehensive evaluation, certain partial evaluation components and other services as described in the effective State Board of Health "Regulations Governing Eligibility Standards and Charges for Medical Care Services."

2. School referral fees. The payment of fees for referrals made by schools are the responsibility of the referring school system. Unless otherwise established by contract with the school system, the fee is determined by the family's gross income and number of persons dependent upon the income. (see § 12.7 A)

3. University/fees. At those universities with whom the program contracts for clinic services, patient eligibility and fees are established using the same regulations as described in the effective State Board of Health "Regulations Governing Eligibility Standards and Charges for Medical Care Services." However, the university may bill Medicaid and private insurance at the rate established by the university for private patients. The university may not bill any difference between the insurance payment and the university established rate to the patient's family.

C. Central billing.

The program maintains a centralized billing system to bill families and Medicaid. The family or other authorized source is billed at 30, 60, 90 and 120 calendar days. If the payment is not made within 120 days of the date of service, additional chargeable services are discontinued.

A written notice, including the development of a payment plan for overdue payments, is presented to the family or other authorized source. The written notice describes how an individual may file an appeal.

D. Collections.

Those accounts on which there has been no payment within 120 days from the date of services are referred to the department's fiscal office for collection through the approved collection agency.

E. Insurance.

The collection of private health insurance is the responsibility of the patient's family. Clinic personnel provide medical information to assist in completing the forms.

F. Purchased services.

1. Ancillary services. Payment of ancillary services or those services purchased external to the clinic is the responsibility of the family, except for families below 100% of poverty as defined by the federal government. For these families, payment is made for treatment services only for program patients and only from contract or approved providers.

2. Payment in full. Payments for authorized services are limited to those providers of services who accept the amounts allowed by the program as payment in full. Such providers agree not to make any charge to or accept any additional payment from the patient or family for services authorized by the program.

3. Nonrelated services. The program provides only specialized care and does not provide general medical care.

4. Limitation of services. The program only pays for services given by providers licensed by the Commonwealth of Virginia except the out-of-state providers with which the program has contracts.

5. Billing requirements. Bills for ancillary services must be presented for payment with the following information:

a. Name of child.

b. Date of service.

c. Itemized statement.

An invoice reviewed by the administrative director must be used for itemized statement of multiple ancillary services per child, i.e., laboratory work, x-rays, EKG, EEG.

Bills should be presented within 90 days of the date of the ancillary services or denial by a third party payor. Bills submitted subsequent to 90 days must be justified for acceptable extenuating circumstances. NO BILL MAY BE SUBMITTED FOR PAYMENT IF MORE THAN ONE YEAR HAS ELAPSED SINCE THE LAST DATE OF SERVICE.

VIRGINIA HEALTH PLANNING BOARD

Title of Regulation: **VR 359-01-01. Guidelines for Public Participation in Developing Regulations.**

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Public Hearing Date: January 8, 1990 - 9 a.m.
(See Calendar of Events section for additional information)

Summary:

This regulation sets forth, as required by the Administrative Process Act, the mechanism by which interested parties may assist the Virginia Health Planning Board in developing its regulations.

VR 359-01-01. Guidelines for Public Participation in Developing Regulations.

PART I.
GENERAL INFORMATION.

Article 1.
Definitions.

§ 1.1. Definitions.

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

"Department" means the Virginia Department of Health.

"Developmental process" means those activities with respect to a particular regulation occurring between the Planning Board's dissemination of a notice of intent on that regulation and either its release of the proposed new or modified regulation for public comment or its decision not to take the regulatory action described in that notice.

"Notice of intent" means a Notice of Intended Regulatory Action as set forth in Form RR01 of the Virginia Code Commission.

"Planning Board" means the Virginia Health Planning Board.

"Regional agency" means a regional health planning agency as defined in § 32.1-122.01 of the Code of Virginia.

Article 2.
Background, Authority, and Applicability.

§ 1.2. Background.

The Planning Board was created in 1989 to supervise and provide leadership for the statewide health planning system; to provide technical expertise in the development of state health policy; to receive data and information from the regional agencies and consider regional planning interests in its deliberations; to review and assess critical health care issues; and to make recommendations to the Secretary of Health and Human Resources of the Commonwealth of Virginia, the Governor, and the General Assembly concerning health policy, legislation, and resource allocation. The department provides principal staff and administrative support services to the Planning Board.

§ 1.3. Authority.

In addition to its general duties and responsibilities, the Planning Board is required by § 32.1-122.02 C of the Code of Virginia to promulgate such regulations as may be necessary to effectuate the purposes of Article 4.1 (§ 32.1-122.01 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia including, but not limited to, the designation of health planning regions, the designation of regional agencies, and the composition and method of appointment of members of regional health planning boards.

As required by § 9-6.14:7.1 A of the Code of Virginia, these guidelines set forth the process by which the Planning Board shall solicit the input of interested parties in the formation and development of its regulations.

§ 1.4. Applicability.

These guidelines apply to all regulations promulgated by the Planning Board except for emergency regulations adopted in accordance with § 9-6.14:9 of the Code of Virginia and such regulations as may be otherwise excluded from the operation of Article 2 (§ 9-6.14:7.1 et seq.) of the Administrative Process Act pursuant to § 9-6.14:4.1 C of the Code of Virginia.

PART II.
GUIDELINES FOR PUBLIC PARTICIPATION.

Article 1.
Identification of Interested Parties.

§ 2.1. Interested parties list.

The department shall prepare and maintain a list of parties who have demonstrated an interest in the Planning Board's regulations. Such list shall include, but not be limited to, the chief executive officer of each regional agency.

§ 2.2. Updating of list.

Periodically, but not less than once each biennium, the department shall publish in the Virginia Register a notice requesting that any party interested in participating in the Planning Board's development of regulations so notify the department. Respondents to such notices shall be incorporated within the interested parties list; in addition, the department may at any time revise that list based upon other information regarding parties desiring inclusion or evidence that they are no longer interested.

Article 2.
Notifications to Interested Parties.

§ 2.3. Preparation of notice.

When the Planning Board determines that specific regulations within its purview need to be created or modified it shall execute a notice of intent, and may include in that notice the date by which the Planning Board must be advised of any party interested in participating in the developmental process regarding the

specified regulations.

§ 2.4. Dissemination of notice.

The notice of intent shall be published in the Virginia Register and shall be sent to each party then on the interested parties list. It may also be published in such newspapers of general circulation in Virginia as deemed appropriate by the Planning Board.

Article 3.
Soliciting Input from Interested Parties.

§ 2.5. Use of input received.

Information received through the developmental process is intended to assist the Planning Board in determining what, if any, proposed regulatory material it will offer for public comment. Failure of any party to receive information during the developmental process or to participate in that process for any reason shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). The Planning Board has sole discretion over the use of any input received.

§ 2.6. Advisory panels.

Upon its review of responses to a notice of intent, the Planning Board may choose to form one or more advisory panels from among those respondents and others for the specific, limited purpose of assisting it during the relevant developmental process. There shall be at least three and no more than seven members on any such advisory panel. In the interest of stimulating open participation by advisory panel members, there shall be no official transcript of those panels' meetings; however, minutes shall be recorded as required by the Virginia Freedom of Information Act (§ 2.1-340 et seq. of the Code of Virginia).

§ 2.7. Other input.

Each respondent to a notice of intent who indicates a desire to participate in the developmental process for the specified regulations shall be provided a copy of any relevant draft materials prepared by the Planning Board's staff for review by the Planning Board or its designated committee during that process. They shall be invited to forward written comments within a specified time period from the date of material's dissemination. The Planning Board may establish and charge reasonable fees to cover duplication and distribution expenses attributable to the dissemination of such materials to persons who are not members of the Planning Board or its staff.

Article 4.
Additional Opportunities for Public Input.

§ 2.8. Administrative Process Act procedures.

After proposed regulations have been developed by the Planning Board in accordance with these guidelines, they shall be submitted for public comment and adoption in final form in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). Prior to its consideration for adoption, the Planning Board shall be provided a summary description of the nature of the oral and written data, views, or arguments presented during the public comment period. This may include written or oral responses of the department and may also include the department's recommendations for changes.

§ 2.9. Petitions for regulatory action.

Notwithstanding the public's right to bring regulatory issues or other matters to the attention of any member of the Planning Board, any interested person may at any time formally petition the Planning Board with respect to reconsideration or revision of existing regulations or the development of new regulations. The petition must be submitted in writing to the chairman of the Planning Board, who shall arrange for distribution to the Planning Board. The chairman shall advise the petitioner of any formal action taken by the Planning Board thereon.

* * * * * * * * *

Title of Regulations: **VR 359-02-01. Regulations for Designating Health Planning Regions.**

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Public Hearing Date: January 8, 1990 - 9 a.m.
(See Calendar of Events section for additional information)

Summary:

This regulation establishes the process for designating health planning regions and sets forth the topographic and demographic characteristics that are required as a condition of such designation.

VR 359-02-01. Regulations for Designating Health Planning Regions.

PART I.
GENERAL INFORMATIONN.

Article 1.
Definitions.

§ 1.1. Definitions.

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

"Department" means the Virginia Department of Health.

"Health planning region" means a geographic area of

the Commonwealth identified for the purpose of regional health planning in accordance with these regulations and § 32.1-122.01 et seq. of the Code of Virginia.

"Planning Board" means the Virginia Health Planning Board.

"Planning district" means a contiguous area within the boundaries established by the Department of Planning and Budget pursuant to the Virginia Area Development Act, Chapter 34 (§ 15.1-1400 et seq.) of Title 15.1 of the Code of Virginia.

"Regional agency" means a regional health planning agency designated by the Planning Board pursuant to § 32.1-122 et seq. of the Code of Virginia to perform health planning activities within a health planning region.

"Tertiary care" means tertiary care as defined in § 32.1-122.01 of the Code of Virginia; namely, health care delivered by facilities that provide specialty acute care including, but not limited to, trauma care, neonatal intensive care and cardiac services.

Article 2.
Background and Authority.

§ 1.2. Background.

The Planning Board was created in 1989 to supervise and provide leadership for the statewide health planning system; to provide technical expertise in the development of state health policy; to receive data and information from the regional agencies and consider regional planning interests in its deliberations; to review and assess critical health care issues; and to make recommendations to the Secretary of Health and Human Resources of the Commonwealth of Virginia, the Governor, and the General Assembly concerning health policy, legislation, and resource allocation. The department provides principal staff and administrative support services to the Planning Board.

§ 1.3. Authority.

In addition to its general duties and responsibilities, the Planning Board is required by § 32.1-122.02 C of the Code of Virginia to promulgate such regulations as may be necessary to effectuate the purposes of, Article 4.1 (§ 32.1-122.01 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia including, but not limited to, the designation of health planning regions.

PART II.
REQUIRED CHARACTERISTICS OF THE HEALTH PLANNING REGIONS.

Article 1.
Topography.

§ 2.1. Coverage.

Each area of Virginia shall be included in a health planning region; no area of Virginia shall be included in more than one health planning region. A health planning region shall not include any area outside Virginia.

§ 2.2. Congruence with planning districts.

Each health planning region shall consist of one or more planning districts, and shall not contain any part of a planning district unless it also contains all other parts of that planning district.

§ 2.3. Contiguous and compact geographic area.

If a health planning region consists of more than one planning district, those planning districts shall be interconnected and shall not as a group substantially surround any planning district that is not part of that health planning region.

Article 2.
Demographics.

§ 2.4. Resident population.

Each health planning region shall contain a resident population of at least 500,000 persons according to the most current official state estimates as of the time of its designation.

§ 2.5. Medical care resources.

A. As of the time of its designation, each health planning region shall have available within its boundaries multiple levels of medical care services and shall be characterized by reasonable travel time for tertiary care.

B. Unless necessitated by other requirements of these regulations, a health planning region shall not include a planning district whose residents predominantly rely upon the medical care resources of a neighboring health planning region. Evidence of such reliance shall exist if the most recent hospital patient origin survey data acceptable to the department show that, among all residents of the planning district discharged from acute inpatient care units located in Virginia, more than 50% were discharged from units located in the neighboring health planning region.

PART III.
DESIGNATION OF HEALTH PLANNING REGIONS.

Article 1.
Initial Regions.

§ 3.1. Transitional regions.

Until otherwise designated by the Planning Board, the health planning regions shall be the five geographic regions designated by the department for purposes of administering community health services.

§ 3.2. Initial designation.

Prior to its designation of any regional agency the Planning Board, in consultation with the department and any affected regional agencies or transitional regional health planning agencies, shall designate the health planning region for that regional agency consistent with § 32.1-122.01 et seq. of the Code of Virginia and these regulations.

Article 2.
Subsequent Designation.

§ 3.3. Documentation of basis for change.

Any request for a change in health planning region designations shall be directed to the Planning Board and shall be accompanied by appropriate documentation of the rationale for that request including, but not limited to, a comparison of the existing designations and the proposed designations with respect to Part II of these regulations. The department shall advise the Planning Board regarding the adequacy of such documentation and may offer additional information to assist the Planning Board in its evaluation of the request.

§ 3.4. Implementation of change.

Upon its decision to change the health planning region designations, the Planning Board shall so notify each affected regional agency and the administrative office of each affected county and independent city of the nature and effective date of the change, and shall also arrange for such notice to be published in the Virginia Register at least 60 days prior to the effective date.

* * * * * * * *

Title of Regulation: **VR 359-02-02. Regulations Governing the Regional Health Planning Boards.**

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Public Hearing Date: January 8, 1990 - 9 a.m.
(See Calendar of Events section
for additional information)

Summary:

This regulation establishes the required characteristics of a regional health planning board, including such factors as composition, method of appointment, term of office, and tenure of members.

VR 359-02-02. Regulations Governing the Regional Health Planning Boards.

PART I.
GENERAL INFORMATION.

Article 1.
Definitions.

§ 1.1. Definitions.

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

"Consumer" means a person who is not a provider of health care services.

"Department" means the Virginia Department of Health.

"Planning Board" means the Virginia Health Planning Board.

"Provider" means a licensed or certified health care practitioner, a licensed health care facility or service administrator, or an individual who has a personal interest in a health care facility or service as defined in the Virginia Conflict of Interest Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

"Region" means a health planning region designated by the Planning Board.

Regional agency" means a regional health planning agency designated by the Planning Board pursuant to § 32.1-122.01 et seq. of the Code of Virginia to perform health planning activities within a region.

"Regional board" means the governing body of a regional agency.

Article 2.
Background and Authority.

§ 1.2. Background.

The Planning Board was created in 1989 to supervise and provide leadership for the statewide health planning system; to provide technical expertise in the development of state health policy; to receive data and information from the regional agencies and consider regional planning interests in its deliberations; to review and assess critical health care issues; and to make recommendations to the Secretary of Health and Human Resources of the Commonwealth of Virginia, the Governor, and the General Assembly concerning health policy, legislation, and resource allocation. The department provides principal staff and administrative support services to the Planning Board.

§ 1.3. Authority.

In addition to its general duties and responsibilities, the Planning Board is required by § 32.1-122.02 C of the Code of Virginia to promulgate such regulations as may be necessary to effectuate the purposes of Article 4.1 (§ 32.1-122.01 et seq.) of Chapter 4 of Title 32.1 of the Code

of Virginia including, but not limited to, the composition and method of appointment of members of regional boards.

PART II.
REQUIRED CHARACTERISTICS OF THE REGIONAL BOARDS.

Article 1.
Composition.

§ 2.1. Size.

Each regional board shall consist of no more than 30 residents of the region.

§ 2.2. Representation.

A. The membership of each regional board shall consist of consumer members and provider members, with a majority consumers.

B. Among its consumer and provider members each regional board shall contain at least one director of a local health department, at least one director of a local department of social services or welfare, at least one director of a community services board, at least one director of an area agency on aging, at least one representative of health care insurers, at least one representative of local governments, at least one representative of the business community, and at least one representative of the academic community.

Article 2.
Method of Appointment.

§ 2.3. General requirements.

A. Appointments shall be made in a manner that assures that the regional board is not self-perpetuating. This may be accomplished through selection by vote of the members from nominations made by persons who are not members; appointments by governmental bodies, professional associations, or other organized groups of constituents to be represented by membership; or other methods acceptable to the Planning Board. The same approach need not be taken for each category of member.

B. Consumer members shall be appointed in a manner that ensures the equitable geographic and demographic representation of the region.

C. Provider members' nominations, or their appointments, shall be solicited from professional organizations, service, and educational institutions, and associations of service providers and health care insurers, in a manner that assures equitable representation of provider interest.

Article 3.
Tenure.

§ 2.4. Standard term for membership positions.

The standard term for membership positions shall be no more than four years.

§ 2.5. Limitation on terms served.

The maximum number of consecutive terms that may be served by any individual shall be two. Any partial term served amounting to more than half the standard term shall be counted toward this maximum.

§ 2.6. Vacancies.

Any appointment to fill a vacated but unexpired term shall have the same expiration date as that unexpired term.

Article 4.
Staggered Terms.

§ 2.7. General provisions.

Each regional board shall establish, if necessary, and maintain staggered terms for its membership positions such that the number of consumer member terms expiring in a given year is approximately equal to its total number of consumer member positions divided by the number of years contained in its standard term, and the number of provider member terms expiring in a given year is approximately equal to its total number of provider member positions divided by the number of years contained in its standard term.

§ 2.8. Establishment of staggered terms.

A regional board created anew shall establish staggered terms for membership positions by specifying initial terms in the following manner (subsequent terms would be for the standard term). If the standard term is two years approximately half of the initial consumer member terms and approximately half of the initial provider member terms shall be for one year, and the remaining initial terms shall be for two years. If the standard term is three years approximately one-third of the initial consumer member terms and approximately one-third of the initial provider member terms shall be for one year, similar numbers of initial consumer member terms and initial provider member terms shall be for two years, and the remaining initial member terms shall be for three years. If the standard term is four years approximately one-fourth of the initial consumer member terms and approximately one-fourth of the initial provider member terms shall be for one year, similar numbers of initial consumer member terms and initial provider member terms shall be for two years and for three years, and the remaining initial member terms shall be for four years.

A regional board derived from one or more previously existing governing bodies shall have in place a mechanism, acceptable to the Planning Board, for

establishing staggered terms consistent with § 2.7 of these regulations.

* * * * * * * * *

Title of Regulation: **VR 359-02-03. Regulations for Designating Regional Health Planning Agencies.**

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Public Hearing Date: January 8, 1990 - 9 a.m.
(See Calendar of Events section
for additional information)

Summary:

This regulation establishes the process for designating regional health planning agencies and sets forth the characteristics that are required as a condition of such designation.

VR 359-02-03. Regulations for Designating Regional Health Planning Agencies.

PART I.
GENERAL INFORMATION.

Article 1.
Definitions.

§ 1.1. Definitions.

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

"Commissioner" means the State Health Commissioner.

"Department" means the Virginia Department of Health.

"Planning Board" means the Virginia Health Planning Board.

"Region" means an area of the Commonwealth designated by the Planning Board as a health planning region.

"Regional agency" means a regional health planning agency, including the regional board, its staff, and any component thereof, designated by the Planning Board pursuant to § 32.1-122.01 et seq. of the Code of Virginia to perform health planning activities within a region.

"Regional board" means the governing body of a regional agency.

"State Health Plan" means the State Health Plan as defined in § 32.1-122.01 of the Code of Virginia; its contents include, but are not limited to, analysis of priority health issues, policies, needs, and methodologies for assessing statewide health care needs.

Article 2.
Background and Authority.

§ 1.2. Background.

The Planning Board was created in 1989 to supervise and provide leadership for the statewide health planning system; to provide technical expertise in the development of state health policy; to receive data and information from the regional agencies and consider regional planning interests in its deliberations; to review and assess critical health care issues; and to make recommendations to the Secretary of Health and Human Resources of the Commonwealth of Virginia, the Governor, and the General Assembly concerning health policy, legislation, and resource allocation. The department provides principal staff and administrative support services to the Planning Board.

§ 1.3. Authority.

In addition to its general duties and responsibilities, the Planning Board is required by § 32.1-122.02 C of the Code of Virginia to promulgate such regulations as may be necessary to effectuate the purposes of Article 4.1 (§ 32.1-122.01 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia including, but not limited to, the designation of regional agencies.

PART II.
REQUIRED CHARACTERISTICS OF THE REGIONAL AGENCIES.

Article 1.
General.

§ 2.1. Corporate structure.

Each regional agency shall be a Virginia not-for-profit corporation and shall maintain § 501(c)(3) federal tax exemption status.

§ 2.2. Independence.

Each regional agency shall be organizationally independent of any other entity.

Article 2.
Administration.

§ 2.3. Governance.

Each regional agency shall be governed by a regional board that meets the requirements of such boards as set forth in regulations of the Planning Board.

§ 2.4. Staff.

Each regional agency shall employ, on a full-time basis,

a chief executive officer whose background includes relevant post-baccalaureate education and experience, and shall in general maintain staff expertise in the gathering of, objective analysis of, and effective communication of information pertinent to health system planning. No person shall at the same time be an employee of a regional agency and a member of its regional board.

§ 2.5. Location.

Each regional agency shall operate from one or more offices located within its designated region.

Article 3.
Documentation.

§ 2.6. Regional board membership.

Each regional agency shall keep the department informed of the name, address, consumer or provider status, interest group represented (if applicable), and date of term expiration of each current member of its regional board.

§ 2.7. Nonclerical staff.

Each regional agency shall keep the department informed of the name, title, and relevant credentials of each current member of its nonclerical staff and the address and telephone number of the regional agency office from which they operate.

PART III.
DESIGNATION OF REGIONAL AGENCIES.

Article 1.
Initial Regional Agencies.

§ 3.1. Transitional regional agencies.

Regional health planning agencies in existence as of July 1, 1989, shall be retained as transitional regional agencies until July 1, 1990, or until a regional agency for that region is designated by the Planning Board, whichever occurs first.

Article 2.
Evaluation and Designation.

§ 3.2. Applications for designation.

Upon its determination that a regional agency needs or will soon need to be designated for any region the Planning Board, through publication of a notice in the Virginia Register, shall solicit applications for designation as the regional agency for that region. Applicants shall be required to submit to the department, within 30 days of such notice, written information from which the Planning Board may judge the applicants' relative capacity and willingness to comply with these regulations and, through execution of a formal agreement with the commissioner, to undertake the following on behalf of the Planning Board: (i) conducting data collection, research, and analyses as required by the Planning Board, including assistance to the Planning Board in developing and revising the State Health Plan; (ii) preparing reports and studies in consultation and cooperation with the Planning Board; (iii) reviewing and commenting on the components of the State Health Plan; (iv) conducting needs assessments as appropriate and serving as a technical resource to the Planning Board; (v) identifying gaps in services, inappropriate use of services or resources, and assessing accessibility of critical services; (vi) reviewing applications for certificates of public need and making recommendations to the department thereon, as provided for in § 32.1-102.6; and (vii) conducting other such functions as directed by their respective regional boards.

The information submitted shall include at least: (i) documentation of the applicant's existing or proposed compliance with Articles 1 and 2 of Part II of these regulations, including a description of each existing nonclerical staff member's qualifications and a description of the minimum qualifications for each vacant nonclerical position; (ii) a general plan for the applicant's relative commitment of financial and human resources among the functions specified in the preceding paragraph; and (iii) examples of planning documents previously developed by the applicant.

§ 3.3. Certification required.

The following statement, signed by an authorized agent of the applicant, shall accompany the application.

"I understand that this application for designation may result in the awarding of a public contract to the applicant and, by my signature below, I certify that this application is made without prior understanding, agreement, or connection with any other corporation, firm, or person submitting an application for such designation and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of the Virginia Governmental Frauds Act and federal law, and can result in fines, prison sentences, and civil damage awards. I certify and warrant that neither I nor the applicant has offered or received any kickback from any other applicant, supplier, manufacturer, or subcontractor in connection with this application (a kickback is defined as an inducement for the award of a contract, subcontracts, or order, in the form of any payment, loan, subscription, advance, deposit of money, services, or anything of value, present or promised, unless consideration of substantially equal or greater value is exchanged). I understand that no person shall demand or receive any payment, loan, subscription, advance, deposit of money, services, or anything of value in return for an agreement to not compete on a public contract. I agree to abide by all conditions of this application and certify that I am authorized to sign this application for the applicant."

§ 3.4. Review and action.

The department shall perform a preliminary review of each application and shall notify each applicant of any further information required to allow for a fair and accurate evaluation by the Planning Board, and shall allow at least 10 days for such information to be submitted as an amendment of or addendum to the application. The application may be rejected if the required information is not submitted as requested. The department may make such reasonable investigations as deemed proper and necessary to determine and advise the Planning Board of the ability of the applicant to serve as a regional agency, and reserves the right to inspect the applicant's physical plant prior to action by the Planning Board.

Each applicant shall be required to have a representative come before the Planning Board to discuss the application and respond to pertinent inquiries. Based upon its evaluation of all competing applications, the Planning Board shall render and, through publication of a notice in the Virginia Register, announce its decision. Following the transitional period that ends July 1, 1990, should the Planning Board designate no regional agency for one or more regions, the department shall serve as the regional agency within the limitations of its resources.

Article 3.
Terminating Designations.

§ 3.5. Request of designated regional agency.

In the event a designated regional agency no longer wishes to serve in that capacity, its regional board shall so notify the Planning Board in writing. The Planning Board shall then solicit, review, and act upon applications for designation of a new regional agency for that region following the provisions of §§ 3.2 through 3.4 of these regulations.

§ 3.6. Request of Planning Board.

In the event the Planning Board contemplates revocation of the designation of any regional agency, it shall so notify that agency and its regional board. The notification shall set forth the Planning Board's rationale and shall invite the submission, within a period of at least 30 days from notification, of relevant information such as a plan to correct specified deficiencies. Among the reasons that the Planning Board may revoke the designation of a regional agency is the lack, for any consecutive 90-day period, of an agreement being in effect with respect to that agency pursuant to § 32.1-122.06 of the Code of Virginia. Should the Planning Board wish to revoke the designation after consideration of the submitted information, it shall so notify the agency and its regional board of that decision and the effective date of revocation. The Planning Board shall then solicit, review, and act upon applications for designation of a new regional agency for that region following the provisions of §§ 3.2 through 3.4 of these regulation.

* * * * * * * *

Title of Regulation: **VR 359-03-01. Administration of State Funding for Regional Health Planning.**

Statutory Authority: §§ 32.1-122.02 and 32.1-122.06 of the Code of Virginia.

Public Hearing Date: January 8, 1990 - 9 a.m.
(See Calendar of Events section for additional information)

Summary:

This regulation establishes administrative rules for the application for, distribution of, and use of state funds appropriated for regional health planning.

VR 359-03-01. Administration of State Funding for Regional Health Planning.

PART I.
GENERAL INFORMATION.

Article 1.
Definitions.

§ 1.1. Definitions.

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

"Commissioner" means the State Health Commissioner.

"Department" means the Virginia Department of Health.

"Planning Board" means the Virginia Health Planning Board.

"Region" means an area of the Commonwealth designated by the Planning Board as a health planning region.

"Regional agency" means a regional health planning agency designated by the Planning Board pursuant to § 32.1-122.01 et seq. of the Code of Virginia to perform health planning activities within a region.

"Regional board" means the governing body of a regional agency.

"State funding" means moneys appropriated by the Virginia General Assembly pursuant to § 32.1-122.06 of the Code of Virginia.

Article 2.
Background and Authority.

§ 1.2. Background.

The Planning Board was created in 1989 to supervise and provide leadership for the statewide health planning system; to provide technical expertise in the development of state health policy; to receive data and information from the regional agencies and consider regional planning interests in its deliberations; to review and assess critical health care issues; and to make recommendations to the Secretary of Health and Human Resources of the Commonwealth of Virginia, the Governor, and the General Assembly concerning health policy, legislation, and resource allocation. The department provides principal staff and administrative support services to the Planning Board.

§ 1.3. Authority.

Section 32.1-122.06 of the Code of Virginia establishes funding for regional health planning and requires the Planning Board to promulgate such regulations as are necessary and relevant to administer the funding.

PART II.
GENERAL REQUIREMENTS.

Article 1.
Conditions on the Distribution of State Funding.

§ 2.1. Recipients.

State funding shall be administered by the department and shall be distributed only to (i) regional agencies, or (ii) the department if the department is performing regional agency functions as provided for in regulations of the Planning Board and if such distribution is not otherwise prohibited.

§ 2.2. Application required.

Each regional agency shall apply to the department for state funding, which shall be distributed as grants. All applications for such funding shall be accompanied by letters of assurance that the applicant shall comply with all state requirements.

Article 2.
Other Conditions.

§ 2.3. Agreements required.

An agreement shall be executed between the commissioner, in consultation with the Planning Board, and each regional board to delineate the work plan and products to be developed with state funding. Funding for the regional agencies shall be contingent upon meeting these obligations.

§ 2.4. Allowable uses of state funding.

State funding may be used for the administration of the regional agency, the analysis of issues, and such other health planning purposes as may be requested by the Planning Board.

PART III.
ADMINISTRATION OF GRANTS.

§ 3.1. Planning products.

The Planning Board shall develop and maintain descriptions of planning products that it desires to have developed with state funding. The Planning Board shall establish, and revise as necessary, the relative priority among these desired products. The descriptions and priorities shall be made available to each regional agency as a basis for developing the applications required by Part II of these regulations.

§ 3.2. Minimum contents of application.

Each application shall include at least the following information:

1. Name and principal office address of applicant.

2. Region served.

3. Name and telephone number of the applicant's official contact person.

4. Description of services to be provided by use of state funding, including:

a. Planning products to be developed;

b. Work plan for developing planning products, including for each:

(1) Schedule of activities, including work to be completed by the end of each quarter,

(2) Number of nonclerical staff days required,

(3) Number of clerical staff days required, and

(4) Nature of technical assistance required from the department;

c. Regulatory services to be provided, in particular those pursuant to § 32.1-102.6 of the Code of Virginia, with estimates of clerical and nonclerical staff days required;

d. Other services to be provided, with estimates of clerical and nonclerical staff days required.

5. Description of services to be provided other than by use of state funding.

6. Budget projection for each year of the requested grant period, with:

a. Detailed information by type expenditure for each service to be provided, and

b. A summary of available and expected financing by major source including requested state funding.

7. Proposed staff complement by job title, with salary or wages for each year of the requested grant period and clarification regarding full-time or part-time status.

8. Current bylaws of the applicant's regional board.

9. Letter of assurance as required by Part II of these regulations.

§ 3.3. Awarding of grants.

In consultation with the Planning Board, the commissioner shall award grants based upon his evaluation of the relevant applications. Grants to regional agencies shall not exceed the maximum specified in § 32.1-122.06 of the Code of Virginia, and shall be contingent upon the execution of agreements as required by Part II of these regulations. The extent to which grants are awarded to regional agencies shall be dependent upon the amount of money appropriated for state funding and, within that constraint and consistent with § 32.1-122.06 of the Code of Virginia, shall be commensurate with the products and services specified in the agreements.

§ 3.4. Distribution of funds.

State funding shall be distributed to regional agencies by the commissioner in accordance with the related agreements, but in no instance shall a regional agency receive funding more than six months in advance.

§ 3.5. Accountability.

Each regional agency shall demonstrate and document accountability for state funding through quarterly expenditure and activity reports which shall be submitted to the commissioner. Such reports shall include, but are not limited to, quarterly and year-to-date experience compared with the corresponding projections and work plans as set forth in the related agreement. The commissioner may delay or deny state funding payments in the absence of timely submittal of these reports.

§ 3.6. Amending of agreements.

The agreements pursuant to Part II of these regulations may be amended upon mutual consent of the parties involved. The commissioner shall notify the Planning Board of any such amendments.

§ 3.7. Breach of agreements.

In addition to other remedies that may be available, breach of any agreement pursuant to Part II of these regulations shall constitute grounds for termination of state funding, recovery by the commissioner of previously distributed but unexpended state funding, revocation of the planning agency's designation, or a combination of such actions.

DEPARTMENT OF TAXATION

Title of Regulation: **VR 630-1-1805.1. General Provisions: Padlocking Premises.**

Statutory Authority: §§ 58.1-203 and 58.1-1805 of the Code of Virginia.

Public Hearing Date: January 5, 1990 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The regulation sets forth the administrative procedures that shall be followed by the Department of Taxation in suspending the business operations of delinquent taxpayers by padlocking the doors of a business that is seriously delinquent in paying its taxes.

The regulation sets forth the conditions that must exist and the additional conditions that the department may consider in making the determination that padlocking is the appropriate remedy to force the collection of delinquent taxes. It provides that no less than 10 days prior to the actual padlocking, the department shall provide the taxpayer with notice that it is contemplating forcing the business to suspend its operations by padlocking the doors of the business. The taxpayer is given the opportunity for a hearing to show cause why the department should not proceed. If the Tax Commissioner determines that padlocking is appropriate, he may order the business to be padlocked and notices of distraint posted at each entrance to the business. In the event that the taxpayer either (i) pays the delinquent taxes; (ii) posts a bond; or (iii) makes satisfactory payment arrangements with the department, the department shall remove the padlocks and cease the distraint. If none of the three actions takes place within three days after the business is padlocked, the department may obtain a writ of fieri facias and have the sheriff proceed to levy and sell sufficient assets of the business to pay the delinquent taxes.

VR 630-1-1805.1. General Provisions: Padlocking Premises.

§ 1. Definitions.

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

"Business" means the location at which a person is engaged in an activity requiring the registration for the collection, withholding or payment of a tax administered by the Department of Taxation.

"Department" means the Department of Taxation.

"Delinquent tax" means any amount of tax, penalty or interest, assessed by the Department of Taxation, which is not paid in full within 30 days after the date of assessment. No tax is considered delinquent while the Department of Taxation is considering a timely filed application for correction under § 58.1-1821 of the Code of Virginia.

"Padlock" means any act of physical restraint which makes a business location inaccessible to any person other than a person given permission to enter such premises by the Tax Commissioner.

"Tax Commissioner" means the chief executive officer of the Department of Taxation or his delegate.

§ 2. Determination of when padlocking is appropriate.

A. Required factors.

Prior to ordering the padlocking of a business or a business location, the Tax Commissioner first shall make the determination that such action is the appropriate remedy to force the collection of delinquent taxes. The Tax Commissioner must find that the following conditions are satisfied:

1. Minimum amount of tax delinquency. The aggregate amount of delinquent taxes owned by the business or the owner of such business or business location must exceed a minimum amount established by the Tax Commissioner and published in the same manner as documents published under § 58.1-204 C of the Code of Virginia. The aggregate amount of delinquent taxes shall include the total amount of delinquent taxes, penalties and interest owed by the business or the owner of the business, attributable to the business operations of the business to be padlocked.

2. Other collections actions. Padlocking may occur only after the Department of Taxation has attempted other methods of collecting the delinquent taxes. At a minimum, the following shall have occurred:

a. An assessment shall have been issued and mailed or delivered in accordance with the provisions of § 58.1-1820 of the Code of Virginia.

b. A memorandum of lien shall have been filed in accordance with the provisions of subsection A of § 58.1-1805 of the Code of Virginia.

B. Additional factors which may be considered.

In addition to the requirements under subsection A, the following factors may be considered by the Tax Commissioner in determining whether padlocking is appropriate:

1. The effectiveness of prior collection actions, i.e., written requests for payment, telephone contacts, personal contacts and prior judicial orders.

2. The taxpayer's history of chronic delinquency and other conduct tending to hinder or delay the timely collection of taxes administered by the Department of Taxation as a factor in the determination of whether padlocking is appropriate.

3. Whether padlocking is appropriate to complement other actions, e.g., revocation of a dealer's certificate of registration to collect sales tax.

4. The likelihood that continued operation of the business may increase the amount of sales or withholding tax, collected from others and held in trust for the Commonwealth, which has not been paid over to the Department of Taxation.

5. The likelihood that padlocking the business of a delinquent taxpayer will adversely affect the business operations of other taxpayers whose businesses may share the same physical business location as the delinquent taxpayer.

§ 3. Notice of intent to padlock a business.

A. Notice.

If under the provisions of § 2 of this regulation, the Tax Commissioner makes the determination that padlocking is an appropriate method of collecting delinquent taxes, the taxpayer must be so notified. Padlocking may not occur unless the following requirements are met:

1. A notice of the department's intention to padlock is mailed to the last known address of the taxpayer or personnally delivered to the taxpayer not less than 10 days prior to the date padlocking occurs.

2. Such notice shall set out the amounts of delinquent taxes, the periods for which such taxes are delinquent, the types of taxes that are delinquent, and the date such taxes were first assessed by the Department of Taxation.

3. The notice shall contain a brief statement explaining what action the Department of Taxation intends to take if the delinquent taxes are not paid or satisfactory arrangement is not made to pay such taxes and a brief statement explaining the taxpayer's administrative remedies.

4. The notice shall inform the taxpayer of the date,

time and location of the administrative hearing to be held at which the taxpayer may show cause why the business should not be padlocked. Failure to appear at the administrative hearing will be deemed a waiver of the hearing.

5. The notice shall inform the taxpayer that an allegation that the assessment is erroneous will not be considered at the hearing. If the taxpayer desires to make such an allegation it shall be in the form of an application for correction of an erroneous assessment pursuant to § 58.1-1821 of the Code of Virginia. The application shall fully set forth the grounds upon which the taxpayer relies and all facts relevant to the taxpayer's contention. (See subsection C.)

6. The notice shall give the taxpayer a telephone number that he can call to get more information regarding the Department of Taxation's intent to padlock the business.

B. Complementary actions.

The department's notice may be issued at the same time as a notice to revoke a dealer's registration certificate under § 58.1-613 of the Code of Virginia. The show cause hearing under subdivision A 4 may be held in conjunction with a hearing required under § 58.1-613 of the Code of Virginia for the revocation of a sales tax certificate of registration.

C. Application for correction.

The taxpayer may file an application for correction of an erroneous assessment pursuant to § 58.1-1821 of the Code of Virginia if he has reason to believe that the assessment is erroneous. However, if a taxpayer files an application after the department has issued a notice of intent to padlock the business, it is presumed that one of the taxpayer's reasons for filing the application is to prejudice or to render wholly or partially ineffectual proceedings to collect the delinquent tax. In this case, the department may determine that it is in the best interest of the Commonwealth to continue efforts to collect the delinquent tax during the time that it is considering the application for correction, unless the taxpayer posts a bond in an amount and with security satisfactory to the Tax Commissioner.

§ 4. Procedure for padlocking a business.

A. Order to padlock and notice of distraint.

If the Tax Commissioner determines that it is in the best interest of the Commonwealth to cause a business to cease operations by padlocking, he shall issue an order requiring that such action be done. In issuing an order to padlock and notice of distraint, the Tax Commissioner shall certify:

1. He has determined that padlocking is an appropriate method of collecting delinquent taxes; and

2. There has been compliance by the Department of Taxation with the notice requirements found in § 3 of this regulation.

B. Delivery of order and notice.

The Tax Commissioner or his delegate shall personally deliver the order to padlock and the notice of distraint to the business. The order and notice will be delivered during the normal business hours of the business. If the owner of the business is present, the order and notice shall be presented to the owner. In the absence of the owner, the order and notice shall be presented to the person having responsibility for the operation of the business. If no such person is present, the order and notice shall be posted. In all cases, the order and notice shall also be mailed to the last known address of the taxpayer.

C. Employees' and customers' personal effects.

After delivering or posting the order to padlock and notice, employees and customers of the business shall be allowed to gather their personal belongings and to leave the premises. After all individuals have left the business premises, steps shall be taken to protect the inventory and other property of the business.

D. All entrances to the business shall be adequately secured in order to ensure that no individual may enter the business to remove inventory, merchandise or other property.

E. Notices of distraint.

A copy of the order to padlock and the notice of distraint shall be posted at each entrance of the business that is padlocked. The notice shall contain the name of the Tax Commissioner's designated agent or agents, street address and telephone number where any person may call concerning the distraint. The notice shall contain a statement that it is a Class 1 misdemeanor for anyone to enter the premises without prior approval of the Tax Commissioner or his designee.

§ 5. Remedies.

A. Removal of padlocks.

If the taxpayer takes any one of the following actions, the Department of Taxation must cease the distraint and remove the notices and any other devises preventing entry to the business.

1. Full payment of all assessed taxes. Upon receipt of payment in full for the amount of delinquent taxes specified in the notice to the taxpayer, plus any taxes, penalties and interest assessed after the date of the notice, and after the taxpayer has filed returns

for all periods for which returns were delinquent and all taxes when due, the Department of Taxation shall cease the distraint and remove the padlocks.

2. Satisfactory payment arrangement. The Tax Commissioner may enter into a good faith agreement with the taxpayer that provides for the full payment of all delinquent taxes specified in the notice to the taxpayer. The agreement may provide for periodic payments to be made at specific dates. Upon agreement on a satisfactory payment arrangement the Department of Taxation shall cease the distraint and remove the padlocks.

3. Posting of bond. The taxpayer may file an application to the Tax Commissioner for correction of an assessment if he has reason to believe that the assessment is erroneous. However, if a taxpayer files an application after padlocking has occurred, the Department of Taxation will not cease the distraint and remove the padlocks during the time that it is considering the application for correction until the taxpayer has posted a bond in an amount and with security satisfactory to the Tax Commissioner.

B. Levy and sale.

If the taxpayer fails to take any of the actions specified in subsection A within three business days after the padlocking of the business, collection may be enforced as provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01 of the Code of Virginia. The Tax Commissiner may cause a writ of fieri facias to be issued or may direct the sheriff to sell property pursuant to a previous writ of fieri facias. As provided in § 8.01-201 of the Code of Virginia, such a writ shall require the sheriff to levy upon the "goods, chattels, and real estate" of the taxpayer.

C. Leased premises.

If the business is located in leased premises and the taxpayer has not taken any of the actions specified in subsection A within three business days after padlocking, then the Department of Taxation may cause a writ offieri facias to be issued and served as soon as practicable after expiration of the three-day period, if it has not already done so. The sheriff shall be directed to remove the property of the business from the leased premises for storage pending sale. Notwithstanding the preceding sentence, the Department of Taxation may make arrangements with the sheriff and the owner of the leased premises to store the property of the business at the leased premises for such time as may be deemed expedient.

§ 6. Criminal penalty.

It is a Class 1 misdemeanor for any person to enter the padlocked premises without prior approval of the Tax Commissioner. For purposes of this provision:

1. Persons who enter the premises under emergency conditions to protect life or property shall be deemed to have the prior permission of the Tax Commissioner for such entry.

2. The owner of the premises, or an employee or agent of the owner who enters the premises for purposes of routine maintenance shall be deemed to have the prior permission of the Tax Commissioner for such entry.

3. Any person who desires to remove his personal property from the premises shall contact the designated agent of the Tax Commissioner to establish his ownership of the property and to obtain permission to remove it.

If the property has been repaired by the business, or other charges are owed to the business by the owner of the property, the Tax Commissioner may require payment of such charges prior to permitting the removal of such property. Prior to permitting the removal of such property, the Tax Commissioner may require a lien holder to establish the priority and amount of his lien to establish the fair market value of the property, and to pay an amount representing the excess of the fair market value of the property over the amount secured by the lien on the property. Any payments received shall be applied first to the expenses of levy and sale, if any, then to the delinquent tax.

4. Under no circumstances will any person be deemed to have permission to enter the premises if:

a. The purpose of the entry is to operate the business, or

b. The purpose of the entry is to remove, conceal or destroy any property on the premises (unless subdivision 1 applies).

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Title of Regulation: **VR 670-03-7. Regulations Governing Low Vision Services.**

The Virginia Department for the Visually Handicapped and the Board for the Visually Handicapped have decided to **withdraw** the proposed regulation entitled VR 670-03-7. Regulations Governing Low Vision Services published in 5:24 VA.R. 3666-3668 August 28, 1989.

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.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: **VR 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.**

Statutory Authority: §§ 32.1-12 and 32.1-102.1 et seq. of the Code of Virginia.

Effective Date: December 6, 1989

Summary:

These regulations primarily incorporate amendments to the certificate of public need law that became effective on July 1, 1989, to assure program compliance with the law. The amendments to the certificate of public need law provide for the deregulation of certain medical care facility projects that previously required authorization by the State Health Commissioner prior to development and operation.

The amendments to the regulations include the following:

1. Modified definitions of medical care facility and project to reflect a change in projects subject to certificate of public need review beginning July 1, 1989; deletion of definitions for health systems agencies, health services area, health systems plan and Statewide Health Coordinating Council; addition of definitions for regional health planning agencies, health planning region, regional health plan and Virginia Health Planning Board in accordance with changes to the health planning law; and modification of the definition of State Medical Facilities Plan.

2. The addition of a section identifying the process for registration of certain new clinical health services and major medical equipment acquisitions involving an expenditure of $400,000 or more with the State Health Commissioner.

3. The addition of a new section describing the moratorium on the issuance of certificates for the addition of nursing home beds from July 1, 1989, until January 1, 1991. Exceptions to the moratorium are the conversion of existing licensed beds to skilled nursing facility beds under certain conditions and the replacement or renovation on site of existing nursing homes in order to comply with licensure, life safety and accreditation standards.

4. The addition of a new section to advise of the deregulation of outpatient or ambulatory surgery clinics or centers and general hospitals except with respect to the establishment of nursing home beds as of July 1, 1991, notwithstanding any law to the contrary.

5. Modification to the provisions related to administrative hearings on certificate of public need requests prior to the decision of the State Health Commissioner.

6. Deletion of the section describing the exemption review procedure (15-day cycle) as a mechanism for obtaining a certificate of public need because of deregulation of certain clinical health services and major medical equipment.

VR 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.

PART I.
DEFINITIONS.

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

"Acquisition" ~~(medical care facility)~~ means an expenditure of *(i)* $700,000 or more that changes the ownership of a medical care facility *or (ii) $400,000 or more for the purchase of new major medical equipment* . It shall also include the donation or lease of a medical care facility *or new major medical equipment* . An acquisition *of a medical care facility* shall not include a capital expenditure involving the purchase of stock.

"Amendment" means any modification to an application which is made following the public hearing and prior to the issuance of a certificate and includes those factors that constitute a significant change as defined in these regulations. An amendment shall not include a modification to an application which serves to reduce the scope of a project.

"Applicant" means the owner of an existing medical care facility or the sponsor of a proposed medical care facility project submitting an application for a certificate of public need.

"Application" means a prescribed format for the presentation of data and information deemed necessary by the board to determine a public need for a medical care facility project.

"Board" means the State Board of Health.

"Capital expenditure" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance. Capital expenditures need not be made by a medical care facility so long as they are made in behalf of a medical care facility by any person. See definition of person.

"Certificate of public need" means a document which legally authorizes a medical care facility project as defined herein and which is issued by the commissioner to the owner of such project.

"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

"Commissioner" means the State Health Commissioner who has authority to make a determination respecting the issuance or revocation of a certificate.

"Competing applications" means applications for the same or similar services and facilities which are proposed for the same planning district or medical service area and which are in the same review cycle. See ~~§§ 5.1 and 6.8.~~ *§§ 5.8 and 6.5*

"Construction" means the building of a new medical facility ~~and/~~ or the expansion, remodeling, or alteration of an existing medical care facility.

"Construction, initiation of" means project shall be considered under construction for the purpose of certificate extension determinations upon the presentation of evidence by the owner of: (i) a signed construction contract; (ii) the completion of short term financing and a commitment for long term (permanent) financing when applicable; (iii) the completion of predevelopment site work; and (iv) the completion of building foundations.

"Date of issuance" means the date of the commissioner's decision awarding a certificate of public need.

"Department" means the State Department of Health.

"Ex parte" means any meeting which takes place between (i) any person acting in behalf of the applicant or holder of a certificate of public need or any person opposed to the issuance or in favor of the revocation of a certificate of public need and (ii) any person who has authority in the department to make a decision respecting the issuance or revocation of a certificate of public need for which the department has not provided 10 days written notification to opposing parties of the time and place of such meeting. An ex parte contact shall not include a meeting between the persons identified in (i) and staff of the department.

~~"Formal evidentiary hearing" means a hearing held pursuant to § 9-6.14:12 of the Code of Virginia.~~

~~"Health maintenance organization (HMO)" means a public or private organization established under § 38.1-863 et seq. of the Code of Virginia and which (i) is a qualified health maintenance organization under § 1210(d) of the U.S. Public Health Services Act or (ii) provides or otherwise makes available to enrollees health care services, including at least the following: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out of area coverage, and (iii) is compensated (except for co-payments) for the provision of the basic health care services listed in item (2) of this definition to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; and (iv) provides physicians' services primarily (a) directly through physicians who are either employees or partners of the organization, or (b) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).~~

~~"Health service area" means a geographic area of the state designated by the Secretary of the United States Department of Health and Human Services pursuant to § 1511 of United States Public Law 93-641 or its successor.~~

"Health planning region" means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

~~"Health systems agency" means an entity organized, operated and designated as a health systems agency pursuant to Title XV of the United States Public Health Service Act or, in the absence of such an agency, a local, district or regional health planning body established under the laws of the Commonwealth.~~

~~"Health systems plan" means a regional health plan developed by a designated health systems agency in accordance with § 1513(b)(2) of United States Public Law 93-641, or its successor, which sets forth in detail the goals of a healthful environment and the health systems in the geographical area it serves.~~

"Informal [;] fact-finding conference" means a conference held pursuant to § 9-6.14:11 of the Code of Virginia.

"Inpatient beds" means accommodations within a medical care facility with continuous support services (such as food, laundry, housekeeping) and staff to provide health or health-related services to patients who generally remain in the medical care facility in excess of 24 hours. Such accommodations are known by varying nomenclatures

including but not limited to: nursing beds, intensive care beds, minimal or self care beds, isolation beds, hospice beds, observation beds equipped and staffed for overnight use, and obstetric, medical, surgical, psychiatric , *substance abuse, medical rehabilitation* and pediatric beds, including pediatric bassinets and incubators. Bassinets and incubators in a maternity department and beds located in labor or birthing rooms, recovery rooms, emergency rooms, preparation or anesthesia inductor rooms, diagnostic or treatment procedures rooms, or on-call staff rooms are excluded from this definition.

"Medical care facilities" means any institution, place, building, or agency, whether or not licensed or required to be licensed by the board or the State Mental Health ~~and~~ , Mental Retardation *and Substance Abuse Services* Board, whether operated for profit or nonprofit and whether privately owned or operated or owned or operated by a local governmental unit, (i) by or in which facilities are maintained, furnished, conducted, operated, or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated mentally or physically sick or injured persons, or for the care of two or more nonrelated persons requiring or receiving medical, surgical, or nursing attention or services as acute, chronic, convalescent, aged, physically disabled, or crippled or (ii) which is the recipient of reimbursements from third party health insurance programs or prepaid medical service plans. *For purposes of these regulations, only the following medical care facility classifications shall be subject to review:*

"Medical care facility classifications" means ~~that the term medical care facility includes, but is not limited to:~~ *the following:*

1. General hospitals.

~~2. Sanatoriums.~~

~~3.~~ *2.* Sanitariums.

~~4.~~ *3.* Nursing homes.

~~5.~~ *4.* Intermediate care facilities.

~~6.~~ *5.* Extended care facilities.

~~7.~~ *6.* Mental hospitals.

~~8.~~ *7.* Mental retardation facilities.

~~9.~~ *8.* Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts.

~~10.~~ *9.* Specialized centers or clinics developed for the provision of out-patient or ambulatory surgery ~~, renal dialysis therapy, radiation therapy, computerized tomography (CT) scanning or other medical or surgical treatments requiring the utilization of equipment not usually associated with the provision of primary health services~~ .

~~11. Hospices.~~

10. Rehabilitation hospitals.

"Exclusions" means that the following shall not be included ~~in the definition of~~ *as* a medical care facility *classification subject to review* :

~~1. A physician's office except when equipment generally and customarily associated with the provision of health services in an inpatient setting and the cost of which exceeds $400,000 per unit of equipment, is purchased or leased by such physician.~~

~~2. A clinical laboratory, if the clinical laboratory is independent of a physician's office or a hospital and has been determined to meet the requirements of paragraphs (10) and (11) of § 1861 (s) of Title XVIII of the Social Security Act, as they existed on the effective date of the enactment of §§ 32.1-102.1 through 32.1-102.11 of the Code of Virginia.~~

~~3. A hospital that uses up to 10% of its beds as skilled nursing home beds for a maximum of 30 days for any one patient. Such activity must qualify for certification under § 1883 of Title XVIII and § 1913 of the Title XIX of the Social Security Act in order to receive reimbursement from Medicaid for the use of such beds.~~

1. Any facility of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

2. Any nonhospital substance abuse residential treatment program operated by or contracted primarily for the use of a community services board under the Department of Mental Health, Mental Retardation and Substance Abuse Services Comprehensive Plan.

"Medical service area" means the geographic territory from which at least 75% of patients come or are expected to come to existing or proposed medical care facilities, the delineation of which is based on such factors as population characteristics, natural geographic boundaries, and transportation and trade patterns, and all parts of which are reasonably accessible to existing or proposed medical care facilities.

"Modernization" means the alteration, repair, remodeling, replacement or renovation of an existing medical care facility or any part thereto, including that which is incident to the initial and subsequent installation of equipment in a medical care facility. See definition of "construction."

"Operator" means any person having designated responsibility and legal authority from the owner to administer and manage a medical care facility. See definition of "owner."

"Operating expenditure" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is properly chargeable as an expense of operation and maintenance and is not a capital expenditure.

"Other plans" means any plan(s) which is formally adopted by an official state agency or ~~health systems agency~~ *regional health planning agency* and which provides for the orderly planning and development of medical care facilities and services and which is not otherwise defined in these regulations.

"Owner" means any person which has legal responsibility and authority to construct, renovate or equip or otherwise control a medical care facility as defined herein.

"Person" means an individual, corporation, partnership, association or any other legal entity, whether governmental or private. Such person may also include the applicant for a certificate of public need; the ~~health systems agency~~ *regional health planning agency* for the ~~health service area~~ *health planning region* in which the proposed project is to be located; any resident of the geographic area served or to be served by the applicant; any person who regularly uses health care facilities within the geographic area served or to be served by the applicant; any facility or health maintenance organization (HMO) *established under § ~~38.1-86.3~~ 38.2-4300 et seq.* which is located in the health ~~service area~~ *planning region* in which the project is proposed and which provides services similar to the services of the medical care facility project under review; third party payors who provide health care insurance or prepaid coverage to 5% or more patients in the health ~~services area~~ *planning region* in which the project is proposed to be located; and any agency which reviews or establishes rates for health care facilities.

"Physician's office" means a place, owned or operated by a licensed physician or group of physicians practicing in any legal form whatsoever, which is designed and equipped solely for the provision of fundamental medical care whether diagnostic, therapeutic, rehabilitative, preventive or palliative to ambulatory patients and which does not participate in cost-based or facility reimbursement from third party health insurance programs or prepaid medical service plans excluding pharmaceuticals and other supplies administered in the office.

"Planning district" means a contiguous area within the boundaries established by the Department of Planning and Budget as set forth in § ~~15.1-14.02~~ *§ 15.1-1402* of the Code of Virginia.

"Predevelopment site work" means any preliminary activity directed towards preparation of the site prior to the completion of the building foundations. This includes, but is not limited to, soil testing, clearing, grading, extension of utilities and power lines to the site.

"Progress" means actions which are required in a given period of time to complete a project for which a certificate of public need has been issued. See § ~~8.3~~ *§ 7.3* on Progress.

"Project" means:

A. ~~A capital expenditure by or on behalf of a medical care facility, regardless of when made, including but not limited to any studies, surveys, designs, plans, working drawings and specifications, which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and which (i) exceeds $700,000 and does not involve the purchase of equipment identified in this provision of the regulation. Such expenditure shall also include a series of capital expenditures made during a 12-month period or an obligation or series of obligations made during a 12-month period of time by a medical care facility or sponsor of a medical care facility which exceed $700,000 and which would require review if made as a single expenditure; (ii) increases the total number of beds; or (iii) relocates 10 beds or 10% of the beds, whichever is less, from one physical facility to another in any two-year period.~~ *The establishment of a medical care facility; See definition of medical care facility.*

B. ~~The acquisition by a medical care facility, through donation or lease, of equipment or facilities which, if purchased by the medical care facility, would require an expenditure described in subsection A or subsection E of this provision of the regulations.~~ *An increase in the total number of beds in an existing medical care facility.*

C. ~~The acquisition by a medical care facility of equipment or facilities through a transfer at less than fair market value if the transfer at fair market value would require an expenditure described in subsection E of this provision of the regulations.~~ *Relocation of 10 beds or 10% of the beds, whichever is less, from one existing physical facility to another in any two-year period; however, a hospital shall not be required to obtain a certificate for the use of 10% of its beds as nursing home beds as provided in § 32.1-132 of the Code of Virginia.*

D. The introduction ~~by a medical care facility of a clinical health service which the facility has never provided or has not provided in the previous 12 months. See definition of "service (clinical health)."~~ *into any existing medical care facility* [~~*of any new nursing home service, such as intermediate care facility services, extended care facility services or skilled nursing facility services, regardless of the type of medical care facility in which those services are provided; or*~~ *of any new nursing home service such as intermediate care facility services, extended care facility services or skilled nursing facility*

services except when such medical care facility is an existing nursing home as defined in § 32.1-123 of the Code.
]

E. The ~~acquisition, by purchase, lease, gift or bequest, by or on behalf of a medical care facility or, if the unit of equipment is generally and customarily associated with the provision of health services in an inpatient setting, by or on behalf of a physician's office, of equipment the fair market value of which, including the value of studies, surveys, designs, plans, working drawings, specifications and other activities essential to the acquisition of the equipment, exceeds $400,000 and which is used for the provision of medical and other health services.~~ *introduction into an existing medical care facility of any new open heart surgery, psychiatric, medical rehabilitation, or substance abuse treatment service which the facility has never provided or has not provided in the previous 12 months.*

"Public hearing" means a proceeding conducted by ~~the health systems agency~~ *a regional health planning agency* at which an applicant for a certificate of public need and members of the public may present oral or written testimony in support or opposition to the application which is the subject of the proceeding and for which a verbatim record is made. See subsection A of ~~§ 7.6~~ *§ 5.4* or subsection B of [~~§ 7.6~~ *§ 6.6*].

"Regional health plan" means the regional plan adopted by the regional [health] planning agency board.

"Regional health planning agency" means the regional agency, including the regional health planning board, its staff and any component thereof, designated by the Virginia Health Planning Board to perform health planning activities within a health planning region.

"Registration" means the filing of information by the owner on affected new clinical health services established and major medical equipment acquired with an expenditure or expenditure value of $400,000 or more on or after July 1, 1989, in a format prescribed by the Commissioner to satisfy the requirements of these regulations. For purposes of registration, affected clinical health services and major medical equipment shall include only the following:

radiation therapy;

cardiac catheterization;

obstetrical;

neonatal special care unit;

lithotripsy;

magnetic resonance imaging;

position emission tomgraphy (PET) scanning;

computed tomography (CT) scanning

heart, lung and kidney transplants; and

other specialized services or major medical equipment that evolves through changes in medical technology upon designation by the Commissioner.

"Schedule for completion" means a timetable which identifies the major activities required to complete a project as identified by the applicant and which is set forth on the certificate of public need. The timetable is used by the commissioner to evaluate the applicant's progress in completing an approved project.

~~*"Service"* (clinical health) means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.~~

"Significant change" means any alteration, modification or adjustment to a *reviewable* project for which a certificate of public need has been issued or requested following the public hearing which:

1. Changes the site;

2. Increases the capital expenditure amount approved for the project by 10% or more;

3. Changes the number or type of beds including the reclassification of beds from one medical care facility classification to another such as acute care to long term care except when such reclassification is allowable as provided for in these regulations. See ~~exclusions under~~ definition of "medical care facility";

4. Changes the service(s) proposed to be offered; or

5. Extends the schedule for completion of the project for more than a 12-month period of time beyond that originally approved by the Commissioner.

~~*"Statewide Health Coordinating Council"* means the council established pursuant to § 1514 of United States Public Law 93-641, and pursuant to § 32.1-118, of the Code of Virginia.~~

"State health plan" means ~~a document prepared by the Statewide Health Coordinating Council in accordance with § 1524(c)(2)(A) of the United States Public Law 93-641, and § 32.1-120 of the Code of Virginia.~~ *the document approved by the Virginia Health Planning Board which shall include, but not be limited to, analysis of priority health issues, policies, needs and methodologies for assessing statewide health care needs. The State Health Plan 1989-84 and all amendments thereto including all methodologies therein shall remain in force and effect until any such regulation is amended, modified or repealed by the Board of Health.*

"State medical facilities plan" means ~~a plan adopted by the Statewide Health Coordinating Council pursuant to § 32.1-120 of the Code of Virginia for use in the Virginia Medical Care Facilities Certificate of Public Need Program.~~ *the planning document adopted by the Board of Health which shall include, but not be limited to (i) methodologies for projecting need for medical care facility beds and services; (ii) statistical information on the availability of medical care facilities and services; and (iii) procedures, criteria and standards for review of applications for projects for medical care facilities and services. In developing the plan, the Board [of Health] shall take into consideration the policies and recommendations contained in the State Health Plan. The most recent applicable State Medical Facilities Plan shall remain in force until any such regulation is amended, modified or repealed by the Board [of Health] .*

~~*"Suspension of certificate"* means a written order which is issued to the owner of an approved project by the commissioner upon the department's receipt of a request for an administrative hearing or appeal of the decision on such project or the competing application(s). Such order serves as notification to the owner of an approved project to cease temporarily project development, relieves the owner of all performance requirements for development and terminates upon notification by the commissioner that the suspended certificate has been reinstated or revoked.~~

Virginia Health Planning Board" means the statewide health planning body established pursuant to § 32.1-122.02 of the Code of Virginia which serves as the analytical and technical resource to the Secretary of Health and Human Resources in matters requiring health analysis and planning.

PART II.
GENERAL INFORMATION.

§ 2.1. Authority for regulations.

The Virginia Medical Care Facilities Certificate of Public Need Law, which is codified as §§ 32.1-102.1 through 32.1-102.11 of the Code of Virginia, requires the owners or sponsors of medical care facility projects to secure a certificate of public need from the State Health Commissioner prior to initiating such projects. Sections 32.1-102.2 and 32.1-12 of the Code of Virginia direct the Board of Health to promulgate and prescribe such rules and regulations as are deemed necessary to effectuate the purposes of this statute.

§ 2.2. Purpose of rules and regulations.

The board has promulgated these rules and regulations to set forth an orderly administrative process for making public need decisions.

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the following:

A. State Board of Health.

The Board of Health is the governing body of the State Department of Health. The Board of Health has the authority to promulgate and prescribe such rules and regulations as it deems necessary to effectuate the purposes of the Act.

B. State Health Commissioner.

The State Health Commissioner is the executive officer of the State Department of Health. The commissioner is the designated decision maker in the process of determining public need under the Act.

§ 2.4. Public meetings and public hearings.

All meetings and hearings convened to consider any certificate of public need application shall be open to the public in accordance with the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.) of the Code of Virginia.

§ 2.5. Official records.

Written information including staff evaluations and reports and correspondence developed or utilized or received by the commissioner during the review of a medical care facility project shall become part of the official project record maintained by the Department of Health and shall be made available to the applicant, competing applicant and review bodies. Other persons may obtain a copy of the project record upon request. All records are subject to the Virginia Freedom of Information Act.

§ 2.6. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act (§ 9-6.14:1, et seq.) of the Code of Virginia apply to their promulgation.

§ 2.7. Effective date of rules and regulations.

These rules and regulations shall become effective ~~January 22, 1986~~ [~~*July 1, 1989*~~ *December 6, 1989*].

§ 2.8. Powers and procedures of regulations not exclusive.

The commissioner and the board reserve the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provisions set forth herein and the provisions of § 32.1-102.1 et seq. of the Code of Virginia.

§ 2.9. Annual report.

The department shall prepare and shall distribute upon

request an annual report on all certificate of public need applications considered by the State Health Commissioner. Such report shall include a general statement of the findings made in the course of each review, the status of applications for which there is a pending [~~initial~~] determination, an analysis of the consistency of the decisions with the recommendation made by the ~~health systems agency~~ *regional health planning agency* and an analysis of the costs of authorized projects.

PART III.
MANDATORY REQUIREMENTS.

§ 3.1. Requirements for reviewable medical care ~~facilities providers~~ *facility projects* .

Prior to initiating a *reviewable medical care facility* project [~~as set forth in the definition section of these regulations,~~] the owner or sponsor [~~of a medical care facility~~] shall obtain a certificate of public need from the commissioner. In the case of an acquisition of an existing medical care facility, the notification requirement set forth in § ~~3.3~~ [§ ~~3.4~~ § *3.3*] of these regulations shall be met.

§ 3.2. ~~Requirements for noninstitutional providers.~~

~~Any physician or group of physicians or physician practice, of whatever legal form, shall obtain a certificate of public need prior to the purchase or lease of a unit of equipment, the cost of which exceeds $400,000 or the establishment of a medical care facility. See definitions of "project" and "medical care facility."~~ *Requirements for registration of affected clinical health services and major medical equipment. Within 30 days following operation, the owner of a new clinical health service established or major medical equipment* [~~acquired~~] *with an expenditure or expenditure value of $400,000 or more acquired on or after July 1, 1989, that is not defined as a project under these regulations* [*and that has not been previously authorized by the State Health Commissioner prior to July 1, 1989,*] *shall in writing register such service or equipment with the commissioner and copy the regional health planning agency. The format for registration shall be prescribed by the commissioner and shall include information concerning the owner and operator, description, site, capital, financing and lease costs, beginning date and hours of operation of clinical health service and major medical equipment. For purposes of registration, (i) owner shall include any person offering affected clinical health services and major medical equipment and (ii) affected clinical health services and major medical equipment shall include only the following:*

radiation therapy;

cardiac catheterization;

obstetrical;

neonatal;

lithotripsy;

magnetic resonance imaging;

positron emission tomography (PET) scanning;

computed tomography (CT) scanning;

heart, lung, and kidney transplants; and

other specialized services or major medical equipment that evolves through changes in medical technology upon designation by the commissioner.

The commissioner shall acknowledge registration within 15 days of receipt.

§ 3.3. Requirement for notification of proposed acquisition of medical care facilities.

At least 30 days before any person is contractually obligated to acquire an existing medical care facility, the cost of which is $700,000 or more, that person shall provide written notification to the commissioner and the ~~health systems agency~~ *regional health planning agency* that serves the area in which the facility is located. Such notification shall identify the name of the medical care facility, the current and proposed owner, the cost of the acquisition, the services to be added or deleted, the number of beds to be added or deleted, and the projected impact that the cost of the acquisition will have upon the charges of the services to be provided in the medical care facility. The commissioner shall provide written notification to the person who plans to acquire the medical care facility within 30 days of receipt of the required notification. If the commissioner finds that a *reviewable* clinical health service or beds are to be added as a result of the acquisition, the commissioner may require the proposed new owner to obtain a certificate prior to the acquisition. If such certificate is required, an application will be considered under an appropriate review procedure which will be identified at the time of written notification by the commissioner to the applicant for such acquisition.

§ 3.4. Significant change limitation.

No significant change in a project for which a certificate of public need has been issued shall be made without prior written approval of the commissioner. Such request for a significant change shall be made in writing by the owner to the commissioner with a copy to the appropriate ~~health systems agency~~ *regional health planning agency* . The written request shall identify the nature and purpose of the change. The ~~health systems agency~~ *regional health planning agency* shall review the proposed change and notify the commissioner of its recommendation with respect to the change within 30 days from receipt of the request by both the department and the ~~health systems agency~~ *regional health planning agency* . Failure of the ~~health systems agency~~ *regional health planning agency* to notify the commissioner within the 30-day period shall

constitute a recommendation of approval. The commissioner shall act on the significant change request within 35 days of receipt. A public hearing during the review of a proposed significant change request is not required unless determined necessary by the commissioner.

§ 3.5. Requirements for health maintenance organizations.

An HMO must obtain a certificate of public need prior to initiating a project. Such HMO must also adhere to the requirements for the acquisiton of medical care facilities if appropriate. See definition of "project" *and § 3.3.*

PART IV.
DETERMINATION OF PUBLIC NEED (REQUIRED CONSIDERATIONS).

§ 4.1. In determining whether a public need exists for a proposed project, the following factors shall be taken into account when applicable:

A. The recommendation and the reasons therefor of the appropriate ~~health systems agency~~ *regional health planning agency* .

B. The relationship of the project to the applicable health plans of the ~~health systems agency~~ *regional health planning agency,* and the ~~Statewide Health Coordinating Council~~ *Virginia Health Planning Board and the Board* [*of Health*] . .

C. The relationship of the project to the long-range development plan, if any, of the person applying for a certificate.

D. The need that the population served or to be served by the project has for the project.

E. The extent to which the project will be accessible to all residents of the area proposed to be served.

F. The area, population, topography, highway facilities and availablility of the services to be provided by the project in the particular part of the ~~health service area~~ *health planning region* in which the project is proposed.

G. Less costly or more effective alternate methods of reasonably meeting identified health service needs.

H. The immediate and long-term financial feasibility of the project.

I. The relationship of the project to the existing health care system of the area in which the project is proposed.

J. The availability of resources for the project.

K. The organizational relationship of the project to necessary ancillary and support services.

L. The relationship of the project to the clinical needs of health professional training programs in the area in which the project is proposed.

M. The special needs and circumstances of an applicant for a certificate, such as a medical school, hospital, multidisciplinary clinic, specialty center or regional health service provider, if a substantial portion of the applicant's services or resources or both is provided to individuals not residing in the health ~~services area~~ *planning region* in which the project is to be located.

N. The need and the availability in the health [~~services area~~ *planning region*] for osteopathic and allopathic services and facilities and the impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels.

O. The special needs and circumstances of health maintenance organizations. When considering the special needs and circumstances of health maintenance organizations, the commissioner may grant a certificate for a project if the commissioner finds that the project is needed by the enrolled or reasonably anticipated new members of the health maintenance organizations or the beds or services to be provided are not available from providers which are not health maintenance organizations or from other maintenance organizations in a reasonable and cost effective manner.

P. The special needs and circumstances for biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

Q. The costs and benefits of the construction associated with [*the*] proposed project.

R. The probable impact of the project on the costs of and charges for providing health services by the applicant for a certificate and on the costs and charges to the public for providing health services by other persons in the area.

S. Improvements or innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost effectiveness.

T. In the case of health services or facilities proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities in the area similar to those proposed.

~~PART V.~~
~~PROCESS FOR EXEMPTING MEDICAL CARE FACILITY PROJECTS FROM REVIEW PROCEDURES.~~

~~§ 5.1. Applicability.~~

~~Projects of medical care facilities that satisfy the criteria set forth below as determined by the State Health Commissioner shall be exempt from certificate of public need review procedures and issued a certificate of public need.~~

~~A. New clinical health services of a medical care facility involving a capital expenditure of less than $700,000 and an annual operating expenditure of $300,000 or less during the first two years of operation except when such service is a medical care facility or is determined by the commissioner to be of a specialized nature such as CT scanning, open heart surgery, cardiac catheterization and radiation therapy that requires review under a procedure set forth in Part VI and VII of these regulations.~~

~~B. Capital expenditures that do not exceed $700,000 involving the purchase of replacement equipment unless such equipment will cause the introduction of a new clinical health service and such clinical health service has not otherwise been determined exempt from these regulations.~~

~~C. Capital expenditures that do not exceed $1.5 million involving the replacement or addition of equipment and technology for undertakings such as those associated with nurse call systems, materials handling and management information systems, heating and air conditioning systems and parking lots, provided such use does not constitute a clinical health service.~~

~~D. A capital expenditure in any amount involving an emergency which interrupts the immediate safe operation of a medical care facility or which poses an immediate threat to the health and safety of patients and staff and recognized as such in writing by the commissioner.~~

~~§ 5.2. Consideration of applications for exemptions.~~

~~The State Health Commissioner shall exempt any project which is determined to meet the criteria set forth in § 5.01 of the regulations and provide written notification to the applicant within 15 days of receipt of such written request by the department and the health systems agency. Such written request shall identify the name and the ownership by type of control and status of the medical care facility; the operator of the medical care facility; a brief description of the project; the capital and financing costs of the project; the method of financing, the impact of the project on charges; the projected revenue and expenses (direct and indirect) for the first two years of project operation and a schedule for completion of the project. Such schedule should include the expected date to (i) initiate work, (ii) complete the financing, (iii) purchase equipment, (iv) initiate renovation or construction and (v) complete the project. If the commissioner determines that such request does not qualify for exemption from review procedures, the applicant shall be notified in writing of the reasons therefore in accordance with the aforementioned time frame including the legal remedies that are available to the applicant.~~

PART ~~VI.~~ *V.*
ADMINISTRATIVE REVIEW PROCESS.

§ ~~6.1.~~ *5.1.* Applicability.

The administrative review procedure shall be applicable to projects involving (i) a capital expenditure of $700,000 but not more than $3 million which does not change bed capacity or replace existing beds of relocate 10 beds or 10% of the beds whichever is less from one physical facility to another in any two year period or add a clinical health service unless such service is determined to be exempt from review procedures by the commissioner [*or these regulations*], or (ii) a capital expenditure of less than $700,000 and which does change bed capacity or replace existing beds or relocate 10 beds or 10% of the beds whichever is less from one physical facility to another in any two year period or add a new clinical health service unless such service is determined to be exempt from review procedures by the commissioner and these regulations ~~, and (iii) the establishment of a new end stage renal disease, or hospice service~~ .

§ ~~6.2.~~ *§ 5.2.* Preconsultation.

Each ~~health systems agency~~ *regional health planning agency* , in consultation with the department shall provide upon request, advice and assistance concerning community health resources needs to potential applicants submitting projects under the administrative review process. Such advice and assistance shall be advisory only and shall not be a commitment on behalf of the [~~health systems~~ *regional health planning*] agency or the commissioner.

§ ~~6.3.~~ *§ 5.3.* Application forms.

A. Obtaining application forms.

Applications forms shall be available from the commissioner upon written request by the applicant. The request shall identify the owner, the type of project for which forms are requested and the proposed scope (size) and location of the proposed project. A copy of the request should also be submitted by the applicant to the appropriate ~~health systems agency~~ *regional health planning agency* . The department shall transmit application forms to the applicant within 15 days of receipt of request.

B. Filing application forms.

All applications including required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the appropriate ~~health systems agency~~ *regional health planning agency* . No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate ~~health systems agency~~ *regional health planning agency* .

§ ~~6.4.~~ *§ 5.4.* Review of application.

A. Review cycle.

The department shall notify applicant(s) upon receipt of an application by the department and the regional health planning agency of the review schedule including the date, time and place for any informal [,] *fact-finding conference held. See §§ 5.9 and 6.6.* The ~~health system agency~~ *regional health planning agency* shall within 30 days of [~~receipt~~ *the first day of the review cycle*] of the application and following the public hearing conducted in accordance with subsection B of § ~~7.6~~ *§ 6.6* of these regulations, notify the commissioner of its recommendation. Failure of the ~~health systems agency~~ *regional health planning agency* to notify the commissioner within the 30 day time period shall constitute a recommendation of approval. *The department shall transmit its report and the information transmitted to the commissioner by the regional health planning agency to the applicant(s) by the 30th day of the review cycle.*

B. Ex parte contact.

After commencement of a public hearing and before a final decision is made there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided. See definition of "ex parte" contact.

§ ~~6.5.~~ *§ 5.5.* Participation by other persons.

Any person affected by a proposed project under review may directly submit written opinions, data and other information to the appropriate ~~health systems agency~~ *regional health planning agency* and the commissioner at appropriate times for consideration prior to their final action.

§ ~~6.6.~~ *§ 5.6.* Amendment to an application.

The applicant shall have the right to amend an application at any time. Any amendment which is made to an applicant following the public hearing specified in subsection A of § 6.4 and prior to the issuance of a certificate unless otherwise specified in these regulations shall constitute a new application and shall be subject to the review requirements set forth in Part [~~VI~~ *V*] of the regulations. If such amendment is made subsequent to the issuance of a certificate of public need, it shall be reviewed in accordance with § 3.4 of these regulations.

§ ~~6.7.~~ *§ 5.7.* Withdrawal of an application.

The applicant shall have the right to withdraw an application from consideration at any time, without prejudice, by written notification to the commissioner.

§ ~~6.8.~~ *§ 5.8.* Consideration of applications.

All competing applications shall be considered at the same time by the ~~health systems agency~~ *regional health planning agency* and the commissioner. The commissioner shall determine if an application is competing and shall provide written notification to the competing applicants and appropriate ~~health systems agency~~ *regional health planning agency* .

§ ~~6.9.~~ *§ 5.9.* Action on an application.

A. Commissioner's responsibility.

Decisions as to approval or disapproval of applications or a portion thereof for certificate of public need shall be rendered by the commissioner. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan; provided, however, if the commissioner finds, upon presentation of appropriate evidence, that the provisions of either such plan are inaccurate, outdated, inadequate or otherwise inapplicable, the commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

B. Notification process-extension of review time.

The commissioner shall make ~~an initial~~ *final* determination on an application for a certificate of public need and provide written notification detailing the reasons for such determination to the applicant with a copy to the ~~health systems agency~~ *regional health planning agency* by the 35th day of the review cycle unless an extension is agreed to by the applicant *or an informal* [,] *fact-finding conference described in § 6.6 is held. When an informal* [,] *fact-finding conference is necessary, the review cycle shall automatically be extended to no more than 120 days* [~~or~~] *unless otherwise agreed to by the parties to the conference* . Such written notification shall reference the factors and bases considered in making a decision on the application and, if applicable, the remedies available for appeal of such decision and the progress reporting requirements. The commissioner may approve a portion of a project provided the portion to be approved is agreed to by the applicant following consultation, which may be subject to the ex parte provision of these regulations, between the commissioner and the applicant. See definition of "ex parte."

PART ~~VII~~ *VI* .
STANDARD REVIEW PROCESS.

§ ~~7.1.~~ *§ 6.1.* Preconsultation.

Each ~~health systems agency~~ *regional health planning agency* and the department shall provide upon request advice and assistance concerning community health resources needs to potential applicants. Such advice and assistance shall be advisory only and shall not be a commitment on behalf of the ~~health systems agency~~

regional health planning agency or the commissioner.

§ ~~7.2.~~ *§ 6.2.* Application forms.

A. Obtaining application forms.

Application forms shall be available from the commissioner upon written request by the applicant. The request shall identify the owner, the type of project for which forms are requested and the proposed scope (size) and location of the proposed project. Such letter must be directed to the commissioner prior to the submission of the application. A copy of the request should also be submitted by the applicant to the appropriate ~~health systems agency~~ *regional health planning agency* . The department shall transmit application forms to the applicant within 15 days of receipt of request.

B. Filing application forms.

All applications including required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the appropriate ~~health systems agency~~ *regional health planning agency* . No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate ~~health systems agency~~ *regional health planning agency* .

§ ~~7.3.~~ *6.3.* Review for completeness.

The applicant shall be notified by the department within 15 days following receipt of the application if additional information is required to complete the application or the application is complete as submitted. No application shall be reviewed until the department has determined that it is complete. To be complete, all questions on the application must be answered to the satisfaction of the commissioner and all requested documents supplied, when applicable. Additional information required to complete an application should be submitted to the department and the appropriate ~~health systems agency~~ *regional health planning agency* five days prior to the beginning of a review cycle in order to ensure review in the same review cycle. The review cycle for completed applications begins on the 10th day of each month or in the event that the 10th day falls on the weekend, the next work day. See subsection A of § ~~7.6.~~ *§ 6.6.*

§ ~~7.4.~~ *§ 6.4.* One hundred twenty-day review cycle.

The review of a completed application for a certificate of public need shall be accomplished within 120 days of the beginning of the review cycle. See subsection A of § ~~7.6.~~ *§ 6.6.*

§ ~~7.5.~~ *§ 6.5.* Consideration of applications.

All competing applications shall be considered at the same time by the ~~health systems agency~~ *regional health planning agency* and the commissioner. The commissioner shall determine if an application is competing and shall provide written notification to the competing applicants and appropriate ~~health systems agency~~ *regional health planning agency* .

§ ~~7.6.~~ *§ 6.6.* Review of complete application.

A. Review cycle.

At the close of the work day on the 10th day of the month, the department shall provide written notification to applicants specifying the acceptance date and review schedule of completed applications *including a proposed date for any informal* [;] *fact-finding conference that may be held* . The ~~health systems agency~~ *regional health planning agency* shall conduct no more than two meetings, one of which must be a public hearing conducted by the [~~board of the~~] ~~health systems agency~~ *regional health planning agency* [*board*] or a subcommittee of the board and provide applicants with an opportunity, prior to the vote, to respond to any comments made about the project by the ~~health systems agency~~ *regional health planning agency* staff, any information in a staff report, or comments by those voting in completing its review and recommendation by the 60th day of the cycle. By the 70th day of the review cycle, the department shall *complete its review and recommendation of an application and transmit the same to the applicant(s) and other appropriate persons. Such notification shall also include the proposed date, time and place of any informal [;] fact-finding conference.* ~~advise of applicant(s) and other parties of the date, time and place of the informal, fact-finding conference.~~

An informal [;] *fact-finding conference shall be held when (i) determined necessary by the department or (ii) requested by any person opposed to a project seeking to demonstrate good cause at the conference. Any person seeking to demonstrate good cause shall* [~~provide~~ *file no later than seven days prior to the conference*] *written notification to the commissioner, applicant(s) and other competing applicants and regional health planning agency stating the grounds for good cause* [~~to be received seven days in advance of the proceeding~~] .

For purposes of this section, good cause shall mean that (i) there is significant, relevant information not previously presented at and not available at the time of the public hearing, (ii) there have been significant changes in factors or circumstances relating to the application subsequent to the public hearing or (iii) there is a substantial material mistake of fact or law in the department staff's report on the application or in the report submitted by the regional health planning agency. See § 9-6.14:11 of the Code of Virginia.

The commissioner shall render ~~an initial~~ *a final* determination by the 120th day of the review cycle. Unless agreed to by the applicant *and, when applicable, the parties to any informal* [;] *fact-finding conference held* , the review schedule shall not be extended.

B. ~~Health systems agency~~ *Regional health planning agency* required notifications.

Upon notification of the acceptance date of a complete application as set forth in *subsection A § ~~7.3~~ of § 6.6* of these regulations, the ~~health systems agency~~ *regional health planning agency* shall provide written notification of its review schedule to the applicant. The ~~health systems agency~~ *regional health planning agency* shall notify health care providers and specifically indentifiable consumer groups who may be affected by the proposed project directly by mail and shall also give notice of the public hearing in a newspaper of general circulation in such county or city wherein a project is proposed or a contiguous county or city at least nine days prior to such public hearing. Such notification by the ~~health systems agency~~ *regional health planning agency* shall include: (i) the date and location of the public hearing which shall be conducted on the application except as otherwise provided in these rules and regulations, in the county or city wherein a project is proposed or a contiguous county or city and (ii) the date, time and place the final recommendation of the ~~health systems agency~~ *regional health planning agency* shall be made. The ~~health systems agency~~ *regional health planning agency* shall maintain a verbatim record which may be a tape recording of the public hearing. Such public hearing record shall be maintained for at least a one year time period following the final decision on a certificate of public need application. See definition of "public hearing."

C. Ex parte contact.

After commencement of a public hearing and before a final decision is made, there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided. See definition of "ex parte."

§ ~~7.7.~~ *§ 6.7.* Participation by other persons.

Any person affected by a proposed project under review may directly submit written opinions, data and other information to the appropriate [~~health systems~~ *regional health planning*] agency and the commissioner for consideration prior to their final action.

§ ~~7.8.~~ *§ 6.8.* Amendment to an application.

The applicant shall have the right to amend an application at any time. Any amendment which is made to an application following the public hearing and prior to the issuance of a certificate unless otherwise specified in these regulations shall constitute a new application and shall be subject to the review requirements set forth in Part [~~VII~~ *VI*] of the regulations. If such amendment is made subsequent to the issuance of a certificate of public need, it shall be reviewed in accordance with § 3.4 of the regulations.

§ ~~7.9.~~ *§ 6.9.* Withdrawal of an application.

The applicant shall have the right to withdraw an application from consideration at any time, without prejudice by written notification to the commissioner.

§ ~~7.10.~~ *§ 6.10.* Action on an application.

A. Commissioner's responsibility.

Decisions as to approval or disapproval of applications or a portion thereof for certificates of public need shall be rendered by the commissioner. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan; provided, however, if the commissioner finds, upon presentation of appropriate evidence, that the provisions of either such plan are inaccurate, outdated, inadequate or otherwise inapplicable, the commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

B. Notification process-extension of review time.

The commissioner shall make ~~an initial~~ *a final* determination on an application for a certificate of public need and provide written notification detailing the reasons for such determination to the applicant with a copy to the ~~health systems agency~~ *regional health planning agency* by the 120th day of the review cycles unless an extension is agreed to by the applicant *and an informal* [,] *fact-finding conference described in § 6.6 is held. When an informal* [,] *fact-finding conference is held, the 120 day review cycle shall not be extended unless agreed to by the parties to the conference* . Such written notification shall also reference the factors and bases considered in making a decision on the application and, if applicable, the remedies available for appeal of such decision and the progress reporting requirements. The commissioner may approve a portion of a project provided the portion to be approved is agreed to by the applicant following consultation, which may be subject to the ex parte provision of these regulations, between the commissioner and the applicant.

PART ~~VIII~~ *VII* . DURATION/EXTENSION/REVOCATION OF CERTIFICATES.

§ ~~8.1.~~ *§ 7.1.* Duration.

A certificate of public need shall be valid for a period of 12 months and shall not be transferrable from the certificate holder to any other legal entity regardless of the relationship, under any circumstances.

§ ~~8.2.~~ *§ 7.2.* Extension.

A certificate of public need is valid for a 12-month period and may be extended by the commissioner for additional time periods which shall be specified at the time of the extension.

A. Basis for certificate extension within 24 months.

An extension of a certificate of public need beyond the expiration date may be granted by the commissioner by submission of evidence to demonstrate that progress is being made towards the completion of the authorized project as defined in § ~~8.3~~ *§ 7.3* of the regulations. Such request shall be submitted to the commissioner in writing with a copy to the appropriate ~~health systems agency~~ *regional health planning agency* at least 30 days prior to the expiration date of the certificate or period of extension.

B. Basis for certificate extension beyond 24 months.

An extension of a certificate of public need beyond the two years following the date of issuance may be granted by the commissioner when substantial and continuing progress is being made towards the development of the authorized project. In making the determination, the commissioner shall consider whether: (i) delays in development of the project have been caused by events beyond the control of the owner; (ii) substantial delays in development of the project may not be attributed to the owner; and (iii) a revised schedule of completion has been provided and determined to be reasonable. Such request shall be submitted in writing with a copy to the appropriate ~~health systems agency~~ *regional health planning agency* at least 30 days prior to the expiration date of the certificate of period of extension.

C. Basis for indefinite extension.

A certificate shall be considered for an indefinite extension by the commissioner when satisfactory completion of a project has been demonstrated as set forth in subsection C of § ~~8.3.~~ *§ 7.3. and the definition of "Construction, initiation of."*

D. ~~Health systems agency review~~ *Regional health planning agency review* .

All requests for an extension of a certificate of public need shall be reviewed by the appropriate ~~health systems agency~~ *regional health planning agency* within 30 days of receipt by the department and the ~~health systems agency~~ *regional health planning agency* . The recommendations on the request by that agency shall be forwarded to the commissioner who shall act upon the progress report within 35 days of receipt by the department and the ~~health systems agency~~ *regional health planning agency* . Failure of the ~~health systems agency~~ *regional health planning agency* to notify the commissioner within the time frame prescribed shall constitute a recommendation of approval by such ~~health systems agency~~ *regional health planning agency* .

E. Notification of decision.

Extension of a certificate of public need by the commissioner shall be made in the form of a letter from the commissioner with a copy to the appropriate ~~health systems agency~~ *regional health planning agency* and shall become part of the official project file.

§ ~~8.3.~~ *§ 7.3.* Demonstration of progress.

The applicant shall provide reports to demonstrate progress made towards the implementation of an authorized project [~~*which is still reviewable*~~] in accordance with the schedule of development which shall be included in the application. Such progress reports shall be filed in accordance with the following intervals and contain such evidence as prescribed at each interval:

[~~A.~~ *1.*] Twelve months following issuance. Documentation that shows: (i) proof of ownership or control of site; (ii) the site meets all zoning and land use requirements; (iii) architectural planning has been initiated; (iv) preliminary architectural drawings and working drawings have been submitted to appropriate state reviewing agencies and the State Fire Marshal; (v) construction financing has been completed or will be completed within two months and (vi) purchase orders of lease agreements exist for equipment and new service projects.

[~~B.~~ *2.*] Twenty-four months following issuance. Documentation that shows that (i) all required financing is completed; (ii) preconstruction site work has been initiated; (iii) construction bids have been advertised and the construction contractor has been selected; (iv) the construction contract has been awarded and (v) construction has been initiated.

[~~C.~~ *3.*] Upon completion of a project. Any documentation not previously provided which: (i) shows the final costs of the project, including the method(s) of financing; and (ii) shows that the project has been completed as proposed in accordance with the application originally submitted, including any subsequent approved changes.

§ ~~8.4.~~ *§ 7.4.* Revocation of certificate.

A. Lack of progress.

Failure of any project to meet the progress requirements stated in § ~~8.3~~ *§ 7.3* shall be cause for certificate revocation, unless the commissioner determines sufficient justification exists to permit variance, considering factors enumerated in subsections A and C of § ~~8.3~~ *§ 7.3* .

B. Failure to report progress.

Failure of an applicant to file progress reports on an approved project in accordance with § ~~8.3~~ *§ 7.3* of these regulations shall be cause for revocation, unless due to

extenuating circumstances the commissioner [*, in his sole discretion, extends the certificate upon written request of the applicant in accordance with subsection B of § 7.2 of these regulations*].

C. Unapproved changes.

Exceeding a capital expenditure amount not authorized by the commissioner or not consistent with the schedule of completion. See definition of "significant change" and "schedule of completion." *See definition of significant change and schedule of completion.*

D. Failure to initiate construction.

Failure to initiate construcion of the project within two years following the date of issuance of the certificate of public need shall be cause for revocation, unless due to extenuating circumstances the commissioner extends the certificate, in accordance with subsection B of § ~~8.2~~ *§ 7.2.* of these regulations.

E. Misrepresentation.

Upon determination that an applicant has knowingly misrepresented or knowingly withheld relevant data or information prior to issuance of a certificate of public need, the commissioner may revoke said certificate.

F. Noncompliance with assurances.

Failure to comply with the assurances or intentions set forth in the application or written assurances provided at the time of issuance of a certificate of public need shall be cause for revocation.

PART ~~IX~~ *VIII* .
~~ADMINISTRATIVE HEARINGS AND~~ APPEALS.

§ ~~9.1. Reconsideration of initial determination.~~

~~A. Formal evidentiary hearing.~~

~~Formal proceedings provided for in § 9-6.14:12 of the Code of Virginia shall be held upon request when filed with the commissioner within 15 days after the initial determination by the applicant, or any third party payor providing health care insurance or prepaid coverage to 5% or more of the patients in the applicant's service area, the health systems agency or any person showing good cause or, in the case of revocation, by the person whose certificate is being revoked. Such proceedings shall be public proceedings and commence within 30 days of the receipt of such request.~~

~~B. Good cause.~~

~~For purposes of this section, "good cause" shall mean that (i) there is significant, relevant information not previously considered, (ii) there have been significant changes in factors or circumstances relating to the application subsequent to the public hearing or (iii) there is a substantial material mistake of fact or law in the department staff's report on the application or in the report submitted by the health systems agency.~~

~~C. Notification and suspensions.~~

~~Upon receipt of a request for a formal evidentiary hearing, the department shall notify the applicant, health systems agency, competing applicant and other appropriate persons and suspend the certificate(s) of public need, if applicable.~~

~~D. Establishing time, date, place.~~

~~Within seven days following receipt of a request for a formal evidentiary hearing the commissioner shall set a time, date and place for a formal hearing which shall be held within 30 days of receipt of the request.~~

~~E. Notification of decision.~~

~~Not later than 30 days following completion of the hearing record, the commissioner shall set forth the final decision, in writing, including the reasons therefore, and shall provide copies of the decision to all parties.~~

§ ~~9.2.~~ *§ 8.1.* Court review.

A. Appeal to circuit court. [*Appeals to a circuit court shall be governed by applicable provisions of Virginia's Administrative Process Act, § 9-6.14:15 et seq. of the Code.*]

[Any applicant aggrieved by a final administrative decision on its application for a certificate, any third party payor providing health care insurance or prepaid coverage to 5.0% or more of the patients in the applicant's service area, a [~~health systems~~ *regional health planning*] agency operating in the applicant's service area or any person showing good cause or any person issued a certificate aggrieved by a final administrative decision to revoke said certificate, within 30 days after the decision, may obtain a review, as provided in § 9-6.14:17 of the Code of Virginia by the circuit court of the county or city where the project is intended to be or was constructed, located or undertaken. Notwithstanding the provisions of § 9-6.14:16 of the Administrative Process Act, no other person may obtain such review. ~~Appeals to a circuit court shall be governed by applicable provisions of Virginia's Administrative Process Act, § 9-6.14:15 et seq. of the Code.~~]

B. Designation of judge.

The judge of the court referred to in § ~~10.2~~ [*subsection A of*] *§ 8.1* of these regulations shall be designated by the Chief Justice of the Supreme Court from a circuit other than the circuit where the project is or will be under construction, located or undertaken.

C. Court review procedures.

Within five days after the receipt of notice of appeal, the department shall transmit to the appropriate court all of the original papers pertaining to the matter to be reviewed. The matter shall thereupon be reviewed by the court as promptly as circumstances will reasonably permit. The court review shall be upon the record so transmitted. The court may request and receive such additional evidence as it deems necessary in order to make a proper disposition of the appeal. The court shall take due account of the presumption of official regularity and the experience and specialized competence of the commissioner. The court may enter such orders pending the completion of the proceedings as are deemed necessary or proper. Upon conclusion of review, the court may affirm, vacate or modify the final administrative decision.

D. *Further* appeal ~~to supreme court~~ .

Any party to the proceeding may appeal the decision of the circuit court in the same manner as appeals are taken and as provided by law.

PART ~~X~~ *IX* .
SANCTIONS.

§ ~~10.1.~~ *§ 9.1.* Violation of rules and regulations.

Commencing any project without a certificate required by this statute shall constitute grounds for refusing to issue a license for such project.

§ ~~10.2.~~ *§ 9.2.* Injunctive relief.

On petition of the commissioner, the Board [*of Health*] or the Attorney General, the circuit court of the county or city where a project is under construction or is intended to be constructed, located or undertaken shall have jurisdiction to enjoin any project which is constructed, undertaken or commenced without a certificate or to enjoin the admission of patients to the project or to enjoin the provision of services through the project.

~~PART XI.~~
~~SEVERABILITY CLAUSE.~~

~~§ 11.1. If any clause, sentence, paragraph, subdivision, section or part of these rules and regulations, shall be adjudged by any court of competent jurisdiction to be invalid, the judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which the judgement shall have been rendered.~~

PART [~~XI.~~ X.]
OTHER.

[~~§ 11.1.~~ § 10.1.] Certificate of public need moratorium.

Notwithstanding any law to the contrary, the Commissioner shall not approve, authorize or accept applications for the issurance of any certificate of public need pursuant to the regulations for a medical care facility project which would increase the number of nursing home beds from the effective date of the regulations through January 1, 1991. [~~Exceptions to the moratorium are~~ However, the commissioner may approve or authorize the issuance of a certificate of public need for the following projects] :

1. The renovation or replacement on site of a nursing home, intermediate care or extended care facility or any portion thereof when a capital expenditure is required to comply with life safety codes, licensure, certification or accreditation standards.

2. The conversion on site of existing licensed beds of a medical care facility other than a nursing home, extended care, or intermediate care facility to beds certified for skilled nursing services (SNF) when (i) the total number of beds to be converted does not exceed the lesser of 20 beds or 10% of the beds in the facility; (ii) the facility has demonstrated that the SNF beds are needed specifically to serve as specialty heavy care patient population, such as ventilator-dependent and AIDS patients and that such patients otherwise will not have reasonable access to such services in existing or approved facilities; and (iii) the facility further commits to admit such patients on a poverty basis once the SNF unit is certified and operational.

[~~§ 11.2.~~ § 10.2.] Expiration of requirements for general hospitals and outpatient or ambulatory surgery centers or clinics.

Notwithstanding any law to the contrary, as of July 1, 1991, general hospitals and specialized centers or clinics developed for the provision of outpatient or ambulatory surgery shall no longer be medical care facilities subject to review pursuant to these Regulations except with respect to the establishement of nursing home beds in general hospitals.

REGISTRATION FORM
FOR
NEW CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT ACQUISITION
ON OR AFTER JULY 1, 1989
PURSUANT TO SECTION 32.1-102.3:4, PART 1, OF THE CODE OF VIRGINIA

ALL QUESTIONS APPLY ONLY TO NEW CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT BEING REGISTERED

1. BRIEFLY DESCRIBE CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT ACQUISITION INCLUDING THE NAME OF THE EQUIPMENT MANUFACTURER, IF APPLICABLE: (If clinical health service involves beds, identify the number of beds and the former use of beds)

_____
_____
_____
_____
_____

2. NAME AND ADDRESS OF OWNER OF SERVICE OR EQUIPMENT:

_____
_____

TYPE OF CONTROL AND OWNERSHIP: (check one)

_____ Proprietary _____ Non-Profit _____ Governmental

3. NAME AND ADDRESS OF OPERATOR OF SERVICE OR EQUIPMENT, IF DIFFERENT FROM THE OWNER:

_____
_____

4. SITE OF CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT (if mobile operation, identify name and location of all medical care facility or physician office sites):

_____
_____
_____
_____

5. Identify capital expenditure required to establish the service and equipment in terms of the following:

	=		+		+		+	
Total capital costs		Major medical equipment costs (if equipment leased, fair market value)		Direct construction costs		Renovation Costs		Other capital costs

(Examples of other capital costs include site acquisition, site preparation and off-site costs; architectural and engineering and other consultant fees; taxes during construction; financing fees that are capitalized.)

6. If there are no capital costs associated with 1) establishing the affected clinical health service or acquiring the major medical equipment and 2) space used to provide the affected service or equipment, identify annua lease payments for each applicable category.

_____
_____
_____

7. Identify any financing costs associated with the clinical health service or major medical equipment in terms of the following:

_____
Amount of Capital Costs Financed

_____
Total Interest Costs Over the Life of the Loan

_____
Financing Method Including Rate and Term (If variable rate, identify current rate)

8. Date on which clinical health service or major medical equipment became operational: _____

9. Scheduled Hours of Operation for clinical health service or major medical equipment per day: _____

Average Number of Hours of operation for clinical health service or major medical equipment per day: _____

Days of Week clinical health service or major medical equipment is operational: _____

ASSURANCE

I hereby assure and certify that:

-- The information included in this form is correct to the best of my knowledge and belief and that it is my intent to carry out the clinical health service or major medical equipment acquisition as described.

_____ _____
Signature of Authorizing Officer Address

_____
Telephone Number

_____ _____
Name and Title of Authorizing Officer Date

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: **VR 615-45-2. Child Protective Services Client Appeals.**

Statutory Authority: §§ 63.1-25 and 63.1-248.6:1 of the Code of Virginia.

Effective Date: December 6, 1989

Summary:

This regulation establishes the procedures under which an individual who is found or suspected to have abused or neglected a child can request that the report or disposition made by the local department of social services be amended. It recognizes the need to provide a structure through which such individuals can exercise their constitutionally assigned due process rights when such findings are made against them.

The changes made do not change the substance of the regulations as proposed; rather, they clarify some procedures and establish some needed time deadlines.

The certified mail provision is deleted except for the hearing decision in response to concerns expressed during the comment period about expense and potential difficulty in appellant's receiving this mail. For most other appeal procedures in the department, certified mail is not required.

The Local Conference section is enlarged to provide some guidance and clarification about the agency conference as requested during the comment period. It is made clear that the local conference is informal and not a hearing, and that the local director or his designee presides at the conference and has the authority to amend the disposition and record. This provision mirrors the statute. Once again the certified mail requirement is deleted for reasons stated.

The Administrative Hearings section is changed to include timeframes for scheduling and decisionmaking by the hearings officer. The content of the written decision is clarified. Here the certified mail requirement remains.

The reference to Child Protective Services Information System is changed to the more generic Child Abuse/Neglect Central Registry because the specific name of the system may change from time to time.

VR 615-45-2. Child Protective Services Client Appeals.

PART 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:

"Alleged abuser" means any person who is the subject of a [child protective services] complaint and is suspected of or is found to have committed the abuse or neglect of a child pursuant to § 63.1-248 et seq. of the Code of Virginia.

"Child protective services" means the identification, receipt and immediate investigation of complaints and reports of child abuse and neglect for children under 18 years of age. It also includes documenting, arranging for, and providing social casework and other services for the child, his family, and the alleged abuser.

"Complaint" means a valid report of suspected child abuse/neglect which must be investigated by the local department of social services.

"Final disposition" means the determination of founded, reason to suspect, or unfounded made on each complaint by the investigating worker.

"Founded" means that a review of the facts shows clear and convincing evidence that child abuse or neglect has occurred.

"Reason to suspect" means that a review of the facts shows no clear and convincing evidence that abuse or neglect has occurred. However, the situation gives the worker reason to believe that abuse or neglect has occurred.

"Unfounded" means that a review of the facts shows no reason to believe that abuse or neglect has occurred.

PART II.
POLICY.

§ 2.1. Appeal process.

Appeal is the process by which the alleged abuser may request amendment of the record in [~~cases~~ situations] where the investigation has resulted in a "founded" or "reason to suspect" disposition.

A. Final disposition.

The investigating agency shall notify the alleged abuser of its disposition of the investigation in writing to be mailed to the alleged abuser by [~~certified~~] mail [; ~~return receipt requested~~ as provided in Vol. VII, Section III Chapter A of the Social Services Policy Manual] . The notice shall state the finding as "founded" or "reason to suspect" and outline the rights of appeal and the right to review the case record pursuant to the Virginia Privacy Protection Act of 1976 (§ 2.1-377 et seq. of the Code of Virginia).

B. Local conference.

[1. The purpose and goal of the local conference is to allow the appellant, his representative and the agency

an opportunity to meet informally in an effort to:

a. Resolve their differences about the disposition of the CPS investigation,

b. Explore fully the agency's disposition and reasons for it,

c. Explore fully the alleged abuser's additional information about the investigation and disposition,

d. Facilitate treatment with the family and alleged abuser by encouraging informal dispute resolution.]

[~~1.~~ 2.] A request to amend the record must be made in writing to the local director within 30 days of receipt of the agency notice by the alleged abuser. The local department shall stamp the date of receipt on the request. The local department shall also notify the [~~Child Protective Services Information System~~ Child Abuse/Neglect Central Registry] that an appeal is pending.

[~~2.~~ 3.] The local director or his designee shall arrange a convenient time for an informal conference with the appellant. Participants in the conference will include the appellant and, if the appellant chooses, his authorized representative, and the worker who made the disposition on the case. The local director or his designee shall preside during [the] conference; a designee must be a staff member to whom the worker who made the disposition is subordinate.

[~~3.~~ 4.] Prior to the informal conference, the appellant shall have the opportunity to review the case record pursuant to the Virginia Privacy Protection Act of 1976.

[~~4.~~ 5.] During the informal conference, the appellant may submit any additional documentation or arguments that he deems relevant to the disposition. Such documentation shall become part of the case record.

[~~5.~~ 6.] The [~~presiding employee~~ director or his designee] shall issue a written decision as a result of the informal conference within 30 days of receipt of the written request from the appellant. The written decision shall prescribe:

a. What action will be taken on the request for amendment, and

b. What further appeal rights exist.

The written decision shall be mailed to the appellant [~~by certified mail, return receipt requested~~] .

[7. As a result of the local conference, the local director or his designee may amend the final disposition and case record.

8. The appellant may waive the time deadline for scheduling the local conference.]

C. Administrative hearing.

1. The appellant may request in writing that the commissioner provide an administrative hearing to review the request for amendment:

a. If the local department fails to render a decision within 30 days of a request by an appellant; or

b. Within 30 days of the receipt of an unfavorable written decision of the informal conference.

2. The Commissioner shall appoint a hearing officer to conduct an administrative hearing to review the request for amendment of the [disposition and] case record.

3. Hearing officer's powers and responsibilities.

a. The hearing officer shall set a convenient time [within 45 days of appellant's request] for the parties involved to conduct the hearing. The hearing officer may reschedule the hearing upon good cause [; ~~such as illness~~] . [Appellant may waive time deadlines.]

b. The hearing officer has no subpoena power nor authority to administer oaths or affirmations.

c. The hearing officer may accept all relevant evidence submitted during the hearing, and shall not be bound by strict rules of evidence.

d. Either party may have the hearing recorded by a court reporter. [~~In the absence of a court reporter,~~] The hearing officer shall make or cause to be made an audio recording of the entire hearing, a copy of which shall be available to either party.

e. The hearing officer may defer his decision for a specified period [not to exceed 14 days] after conclusion of the hearing in order for either party to present additional evidence.

f. The hearing officer may examine any witness and give the appellant and the local department an opportunity to examine any witness.

4. Hearing procedure.

a. All persons present shall be identified on the record. The appellant may be accompanied by an authorized representative.

b. The hearing officer shall explain the purpose of the hearing and the procedures that will be followed. The hearing officer shall state that the appellant must prove by a preponderance of the

evidence that the case record should be amended because it contains information which is irrelevant or inaccurate.

c. The local department will submit a copy of all material in the local agency's case record which contains information and documentation used to make the determination of "founded" or "reason to suspect" in the case being appealed, which shall be accepted into evidence by the hearing officer.

d. The appellant will state his objections to the disposition reached by the local department and summarize the evidence supporting his conclusion. The appellant may submit any further relevant evidence [~~*not previously submitted to the local department*~~].

5. Hearing decision.

a. [*Within 30 days of the close of receiving evidence in the hearing,*] *the hearing officer shall render a written decision which shall be mailed to the appellant by certified mail, return receipt requested. A copy of the decision shall be mailed to the local department by first class mail.*

b. The decision of the hearing officer shall [~~*outline*~~ *state*] *:*

(1) Findings of fact;

[*(2) Conclusions based on law and regulation;*]

[~~*(2)*~~ *(3)*] *Final disposition of the case* [*and action to be taken on appellant's request to amend the disposition or case record*] *;*

[~~*(3) Expungement or amendment of any information in the record; and*~~]

(4) Right to judicial review.

D. Final action.

Upon receipt of the hearing officer's decision, the local department shall amend the record and the [~~*Child Protective Services Information System*~~ *Child Abuse/Neglect Central Registry*] *report in accordance with the decision.* [*Notification shall be made to the Child Abuse/Neglect Central Registry.*]

* * * * * * * * *

Title of Regulation: **VR 615-46-01. Adult Protective Services.**

Statutory Authority: §§ 63.1-25, 63.1-55.1, and 63.1-55.4 of the Code of Virginia.

Effective Date: December 6, 1989

Summary:

This regulation establishes requirements for the receipt and investigation of a report of adult abuse, neglect, or exploitation by local departments of social services. It establishes requirements for the disclosure of information pursuant to § 63.1-55.4 of the Code of Virginia and establishes requirements for the provision of services to persons who are found through Adult Protective Services investigations to need protective services.

VR 615-46-01. Adult Protective Services.

PART I.
DEFINITIONS.

§ 1.1. Definitions.

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

"Abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement.

"Mental anguish" means a state of emotional pain or distress resulting from activity (verbal or behavioral) of a perpetrator. The intent of the activity is to threaten or intimidate, to cause sorrow or fear, to humiliate or ridicule. There must be evidence that it is the perpetrator's activity which has caused the adult's feelings of pain or distress.

"Unreasonable confinement" means the use of restraints (physical or chemical), isolation, or any other means of confinement without medical orders, when there is no emergency and for reasons other than the adult's safety or well-being, or the safety of others.

"Adult" means any person in the Commonwealth who is abused, neglected, or exploited, or is at risk of being abused, neglected, or exploited; and is 18 years of age or older and incapacitated, or is 60 years of age and older.

"Adult protective services" means services provided or arranged by the local department of public welfare or social services which are necessary to prevent abuse, neglect, or exploitation of an adult. These services consist of the identification, receipt, and investigation of complaints and reports of adult abuse, neglect, and exploitation for incapacitated persons 18 years of age and over and person 60 years of age and over. This service also includes the provision of social casework and group work in an attempt to stabilize the situation. If appropriate and available, adult protective services may include the provision of or arranging for home based care, transportation, sheltered employement, adult day care, meal service, legal proceedings, placement and other activities to protect the adult.

"Committee" means a person who has been legally invested with the authority, and charged with the duty of managing the estate or making decisions to promote the well-being of a person who has been determined [by the circuit court] to be totally incapable of taking care of his person or handling and managing his estate because of mental illness or mental retardation. A committee shall be appointed only if [the court finds that] the person's inability to care for himself or handle and manage his affairs is total.

["Department" means the Virginia Department of Social Services.]

"Director" means the director or his delegated representative of the department of public welfare or social services of the city or county in which the person resides or is found.

"Emergency" means that an adult is living in conditions which present a clear and substantial risk of death or immediate and serious physical harm to himself or others.

"Exploitation" means the illegal use of an incapacitated adult or his resources for another's profit or advantage. This includes acquiring a person's resources through the use of that person's mental or physical incapacity; the disposition of the incapacitated person's property by a second party to the advantage of the second party and to the detriment of the incapacitated person; misuse of funds; acquiring an advantage through threats to withhold needed support/care unless certain conditions are met; persuading an incapacitated adult to perform services including sexual acts to which the adult lacks the capacity to consent [~~, such as physical examinations which are not medically indicated and other forms of sexual exploitation~~] .

"Guardian" means a person who has been legally invested with the authority and charged with the duty of taking care of the person and managing his property and protecting the rights of the person who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the person in need of a guardian has been determined to be incapacitated.

"Guardian ad litem" means an attorney appointed by the court to represent the interest of the person for whom a guardian or committee is requested. On the hearing of the petition for appointment of a guardian or committee, the guardian ad litem advocates for the person who is the subject of the hearing, and his duties are usually concluded when the case is decided.

"Incapacitated person" means any adult who is impaired by reason of mental illness, mental retardation, physical illness or disability, or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate or carry out reasonable decisions concerning his or her well-being.

This definition is for the purpose of establishing an adult's eligibility for adult protective services and such adult may or may not have been found incapacitated through court procedures.

"Involuntary protective services" means those services authorized by the court for an adult who has been determined to need protective services and who has been adjudicated incapacitated and lacking the capacity to consent to receive the needed protective services.

"Lacks capacity to consent" means a [preliminary] judgment of a local department of social services social worker that an adult is unable to consent to receive needed services for reasons that relate to emotional or psychiatric problems, mental retardation, developmental delay, or other reasons which impair the adult's ability to recognize a substantial risk of death or immediate and serious harm to himself. The lack of capacity to consent may be either permanent or temporary. [The worker must make a preliminary judgment that the adult lacks capacity to consent before petitioning the court for authorization to provide protective services on an emergency basis pursuant to § 63.1-55.6 of the Code.]

"Legally incapacitated" means that the person has been adjudicated incapacitated by a circuit court because of a mental or physical condition which renders him, either wholly or partially, incapable of taking care of himself or his estate.

"Legally incompetent" means a person who has been adjudicated incompetent by a circuit court because of a mental condition which renders him incapable of taking care of his person or managing his estate.

"Legitimate interest" means that a public or private agency or the representative of such an agency has a need for client specific information which is maintained by a local department of social services as a result of an adult protective services report or investigation. The information is needed in order to fulfill a recognized agency function which can reasonably be expected to serve the best interest of the client who is the subject of the information. Agencies who may have a legitimate interest in such information are specified in § 2.4 B of these regulations.

["Local agency" means any local department of social services/welfare in the Commonwealth of Virginia.]

"Mandated reporters" means those persons who are required pursuant to § 63.1-55.3 of the Code of Virginia, to report to the local department of social services when such persons have reason to suspect that an adult is abused, neglected, or exploited. Persons required to make such reports include any person licensed to practice medicine or any of the healing arts, any hospital resident or intern, any person employed in the nursing profession, any person employed by a public or private agency or facility and working with adults, any person providing

full-time or part-time care to adults for pay on a regularly scheduled basis, any person employed as a social worker, any mental health professional, and any law-enforcement officer.

"Neglect" means that an adult is living under such circumstances that he is not able to provide for himself or is not being provided such services as are necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. Neglect includes the failure of a caregiver, or some other responsible person, to provide for basic needs to maintain the adult's physical and mental health and well-being; and it includes the adult's neglect of self. Neglect includes:

[~~"Inadequate clothing" means~~ a 1. The] lack of clothing considered necessary to protect a person's health;

[~~"Inadequate food" means~~ a 2. The] lack of food necessary to prevent physical injury or to maintain life, including failure to receive appropriate food [~~for~~ when] persons [~~with~~ have] conditions requiring special diets;

[~~"Inadequate shelter" means~~ 3. [Shelter which is not structurally safe; has rodents or other infestations which may result in serious health problems; does not have a safe and accessible water supply, heat source or sewage disposal. Adequate shelter for a person will depend on the impairments of an individual person; however, the person must be protected from the elements which would seriously endanger his health (rain/cold/heat) and result in serious illness or debilitating conditions;

[" 4.] Inadequate supervision [" ~~means the failure of a designated~~ by a] caregiver (paid or unpaid) [who has been designated] to provide the supervision necessary to protect the safety and well-being of adults in his care;

[~~"Medical neglect" means~~ 5. The failure of] persons who are responsible for caregiving have failed to seek needed medical care or to follow medically prescribed treatment for an adult, or the adult has failed to obtain such care for himself. The needed medical care is believed to be of such a nature as to result in physical or mental injury/illness if it is not provided;

[~~"Self-neglect" means~~ 6.] An adult who is [self-neglecting by] not meeting his own basic needs due to mental or physical impairments. Basic needs refer to such things as food, clothing, shelter, health/medical care.

"Report" means an allegation by any person, to a local department of social services, that an adult is in need of protective services. The term "report" shall refer to both reports and complaints of abuse, neglect, and exploitation of adults.

"Voluntary protective services" means those services given to an adult who, after investigation, is determined to be in need of protective services and consents to receiving the services so as to mitigate the risk of abuse, neglect, or exploitation.

PART II.
POLICY.

§ 2.1. Application.

A. The application process is designed to assure the prompt provision of needed adult protective services including services to adults who are not able to complete and sign a service application.

B. Persons who may complete and sign an application for adult protective services on behalf of an adult who needs the service:

1. The adult who will receive the services or the adult's legally appointed guardian/committee;

2. Someone authorized by the adult; or

3. The local [~~department of social services~~ agency] .

C. [~~The local department of social services which shall assume~~] Primary responsibility [for the investigation] when more than one local [~~department of social services~~ agency] may have jurisdiction under § 63.1-55.3 of the Code of Virginia, [~~is~~ shall be assumed by] the [~~department~~ local agency] :

1. Where the subject of the investigation resides when the place of residence is known and when the alleged abuse, neglect, or exploitation occurred in the city or county of residence;

2. Where the abuse, neglect, or exploitation is believed to have occurred when the report alleges that the incident occurred outside the city or county of residence;

3. Where the abuse, neglect, or exploitation was discovered if the incident did not occur in the city or county of residence or if the city or county of residence is unknown and the place where the abuse, neglect, or exploitation occurred is unknown;

4. Where the abuse, neglect, or exploitation was discovered if the subject of the report is a nonresident who is temporarily in the Commonwealth [; ~~or~~ .]

[~~5. Where the~~ D. When an] investigation extends across city or county lines, local [~~departments of social services~~ agencies] in those cities or counties shall assist with the investigation at the request of the local [~~department of social services~~ agency] with primary responsibility.

§ 2.2. Investigation.

A. This regulation establishes a time frame for beginning the adult protective services investigation and gives priority to situations believed to be the most critical.

B. Investigations shall be initated by the local [~~department of social services~~ agency] :

1. Not later than 24 hours from the time the report was received if the situation is an emergency, as defined by § 63.1-55.2 of the Code of Virginia.

2. Not later than five calendar days [from the time the report was received] for all other reports.

§ 2.3. Dispositions.

A. The disposition provides a concise statement of how the report of adult abuse, neglect, or exploitation has been resolved.

B. Possible dispositions.

1. The subject of the report needs protective services. [This disposition shall be used when:]

[a.] A review of the facts shows convincing evidence that adult abuse, neglect or exploitation has occurred or is occurring [;] or

[b.] There is reason to suspect that the adult is at risk of abuse, neglect, or exploitation and needs protective services in order to reduce that risk.

2. The need for protective services no longer exists. The subject of the report no longer needs protective services. A review of the facts shows convincing evidence or provides reason to suspect that adult abuse, neglect, or exploitation has occurred. However, at the time the investigation is initiated, or during the course of the investigation the person who is the subject of the report ceases to be at risk of further abuse, neglect, or exploitation.

3. The report is unfounded. A review of the facts shows no reason to suspect that abuse, neglect, or exploitation occurred or that the adult is at risk of abuse, neglect, or exploitation.

C. The investigation shall be completed and a disposition assigned [by the local agency] within 45 days of the date the report was received. [If the investigation is not completed within 45 days, the record shall document reasons.]

§ 2.4. Disclosure of Adult Protective Services Information.

A. This regulation describes the protection of confidential information including a description of when such information must be disclosed, when such disclosure of the information is at the discretion of the local [~~department of social services~~ agency] , what information may be disclosed, and the procedure for disclosing the information.

B. Agencies [~~who~~ that] have a legitimate interest in confidential information:

[1. Department service staff (central and regional offices) have legitimate interest and shall have regular access to Adult Protective Services records maintained by local agencies.]

[~~1.~~ 2.] The following agencies have [statutory or] investigatory authority and they have a legitimate interest in confidential information when such information is reasonably necessary for the fulfillment of their statutory or regulatory responsibilities and is consistent with the best interest of the [~~client~~ adult] who is the subject of the information:

[~~a. Department of Social Services, Division of Service Programs, Division of Licensing Programs;~~]

[~~b.~~ a.] Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Human Rights;

[~~c.~~ b.] Department for Rights of the Disabled;

[~~d.~~ c.] Attorney General's Office, Medicaid Fraud Control Program;

[~~e.~~ d.] Department for the Aging, Office of the State Long Term Care Ombudsman;

[~~f.~~ e.] Department of Health, Division of Licensure and Certification;

[~~g.~~ f.] Department of Medical Assistance Services; [~~and~~]

[~~h.~~ g.] Department of Health Professions [~~,~~ ;]

[h. Department for the Visually Handicapped; and

i. Department of Social Services, Division of Licensing Programs.]

2. Public/private service providing agencies including Community Services Boards, Area Agencies on Aging, Family Service Agencies [, local health departments] and others may have legitimate interest in confidential information. [~~Legitimate interest exists when the agency will provide services as a part of the protective services plan to an adult who is the subject of an adult protective services report or to an adult who has been determined by an adult protective services investigation to be in need of protective services.~~]

C. Local [~~departments of social services~~ agencies] may release information to the following persons when the local [~~department~~ agency] has determined the person making the request has legitimate interest and the release of information is in the best interest of the adult:

1. Representatives of agencies requesting disclosure when the agency has legitimate interest as identified in § 2.4 B 1 [, 2,] and [~~2~~ 3] of these regulations;

2. Police or other law-enforcement officials who are investigating adult abuse, neglect, or exploitation;

3. A physician who is treating an adult whom he reasonably suspects is abused, neglected, or exploited;

[4. The adult's legally appointed guardian;]

[~~4.~~ 5.] A guardian ad litem who has been appointed for an adult who is the subject of an adult protective services report; [~~or~~]

[~~5.~~ 6.] A family member who is responsible for the welfare of an adult who is the subject of an adult protective services report [~~.~~ ;]

[7. An attorney representing a local agency in an adult protective services case; or

8. The Social Security Administration.]

D. Local [~~departments of social services~~ agencies] are required to disclose information under the following circumstances:

1. When disclosure is ordered by a court;

2. When a person has made an adult protective services report and an investigation has determined the report to be unfounded, the person who made the report shall be notified of the finding pursuant to § 63.1-55.4 of the Code of Virginia; or

3. When a request for access to information is made pursuant to the Privacy Protection Act, [~~§ 2.1-381~~ § 2.1-382] of the Code of Virginia.

[~~Any individual including alleged abusers, neglectors, or exploiters has the right to review and challenge personal information about himself contained in an adult protective services case record. The individual has a right to review personal information about himself only and may not review other information contained in the case record. The name of the complainant is not disclosed. The individual has a right to challenge, correct, or explain information about him maintained in the adult protective services record. The individual may file a statement of not more than 200 words setting forth his position according to procedures set forth in § 2.1-382(5) of the Code of Virginia.~~]

E. [Any or all of the following] specific information [~~which~~] may be disclosed at the [~~option~~ discretion] of the local [~~department of social services~~ agency] to agencies or persons specified in § 2.4 C of these regulations:

1. Name, address, age, race, sex of the adult who is the subject of the request for information:

[2. Name, address, age, race, sex of the person who perpetrated the abuse, neglect, or exploitation;]

[~~2.~~ 3.] Description of the incident(s) of abuse, neglect, or exploitation;

[~~3.~~ 4.] Description of medical problems;

[~~4.~~ 5.] Disposition of the adult protective services report; or

[~~5.~~ 6.] The protective service needs of the adult.

F. Agencies or persons who receive confidential information pursuant to subdivisions 1 through [~~5~~ 8] of [~~§ 2.5~~ § 2.4] C of these regulations shall provide the following assurances [~~, in writing,~~] to the [~~department~~ local agency] :

1. The purposes for which information is requested is related to the adult protective services goal for the client;

2. The information will be used only for the purpose for which it is made available; and

3. The information will be held confidential by the agency or individual receiving the information except to the extent that disclosure is required by law.

[G. Methods of obtaining assurances.

Any one of the following methods may be used to obtain assurances required in § 2.4 F:

1. The use of form 032-01-040/2;

2. Agreements between local agencies and other community service providing agencies which provide blanket assurances required in § 2.4 F for all adult protective services cases;

3. State level agreements which provide blanket assurances required in § 2.4 F for all adult protective services cases; or

4. The use of form 032-02-702.]

[~~G.~~ H.] Notification that information has been disclosed.

When information has been disclosed pursuant to these regulations, notice of the disclosure shall be given to the

person who is the subject of the information or to his legally appointed guardian. [If the client has given permission to release the information via form 032-01-040/2, further notification is unnecessary.]

[§ 2.5. Services provided.

A range of services must be made available to any abused, neglected, or exploited adult or to adults at risk of abuse, neglect, or exploitation to protect the adult and to prevent any future abuse, neglect, or exploitation.

A. Service planning.

A service plan which is based on the investigative findings and the assessment of the client's need for protective services shall be developed. The service plan is the basis for the activities that the worker, the client, and other support persons will undertake to provide the services necessary to protect the adult client.

B. Opening a case to Adult Protective Services.

Once a disposition of the report and an assessment of the adult's needs and strengths have been made, the agency will assess the client's service needs. A case should be opened for Adult Protective Services when:

1. The service needs are identified;

2. The disposition is that the adult needs protective services; and

3. The adult agrees to accept protective services or protective services are ordered by the court.

The disposition that the adult needs protective services may be based on convincing evidence that abuse, neglect, or exploitation has occurred or it may be based on reason to suspect that the adult is at risk of abuse, neglect, or exploitation.

C. Implementation of the service plan.

Implementation of the service plan is the delivery of the services needed to provide adequate protection to the client. The services may be delivered directly, through purchase of service, through informal support, or through referral. The continuous monitoring of the client's progress and the system's response is a part of the implementation.

Local agencies are required to provide services beyond the investigation to the extent that federal or state matching funds are made available.

D. Provision of protective services without the consent of the adult.

Protective services without the consent of the adult are provided when so ordered by the court.]

Commonwealth of Virginia
Department of Social Services

CONFIDENTIALITY FORM CASE NAME: _____

PART A CLIENT PERMISSION TO RELEASE INFORMATION

1. I hereby give the local social service agency permission to give the following information: _____

_____

_____

to: _____
individual/organization/place of business

The agency will not give information about you in its records without your consent. By signing below you give your consent and specify what information may be given and who may receive it.

Signed: _____ Date: _____
client

2. I hereby give permission to _____
individual/organization/place of business

to give the local social service agency the following information:

_____

_____

_____

Signed: _____ Date: _____
client

PART B CLIENT REQUEST FOR INFORMATION

I hereby request: /___/ to read my case record,

/___/ the following information from my case record

_____

_____

_____

_____

I understand that I have the right to inspect information about myself (not others). However, I also understand that I will not be permitted access to mental records if my physician has made a written statement recommending against it. I understand if I find incorrect information in my records my worker will tell me about the procedures for correcting it.

Signed: _____ Date: _____
client

VIRGINIA DEPARTMENT
OF SOCIAL SERVICES ADULT PROTECTIVE SERVICES

2/89 VOLUME VII, SECTION IV, CHAPTER A, PAGE 56f

ASSURANCES OF CONFIDENTIALITY

Fips Code	Date of Request
Worker Assigned	Date Information Disclosed
	Date Client Notified

Name of Client _____

Address _____

_____

Name of Agency _____

Address _____

_____

Telephone _____

Person Making Request _____

Purpose for which information is requested: _____

_____

_____

_____

The undersigned agrees to use the information obtained pursuant to Section 63.1-55.4 of the Code of Virginia only for the purpose for which it is made available and to hold the information confidential except to the extent that disclosure is required by law.

_____
(signature)

_____
(Agency)

_____
(Date)

032-02-702

STATE WATER CONTROL BOARD

Title of Regulations: **VR 680-13-04. Eastern Virginia Groundwater Management Area.**

Statutory Authority: § 62.1-44.96 of the Code of Virginia.

Effective Date: December 6, 1989

Summary:

The Groundwater Act of 1973 authorizes the board to declare groundwater management areas and apply corrective controls to conserve, protect and beneficially utilize the goundwater resources of the Commonwealth and to ensure the preservation of the public welfare, safety and health.

The purpose of the regulation is to expand the existing Groundwater Management Area in Southeastern Virginia to include the counties of Charles City, James City, King William, New Kent, and York; and areas of Chesterfield, Hanover, and Henrico counties east of Interstate 95; the the cities of Hampton, Newport News, Poquoson, and Williamsburg. The expanded area will be known as the Eastern Virginia Groundwater Management Area. Two recently released United States Geological Survey reports that were prepared in cooperation with the board document the need to declare the area under consideration a groundwater management area.

The State Water Control Board will administer this program. The board will issue certificates of groundwater right upon receipt of registration statements and will evaluate applications for groundwater withdrawal permits (permits) and either issue permits, issue permits with conditions, or deny permits.

These regulations will replace a board order dated January 27, 1975, that designated Southeast Virginia as a critical groundwater area.

VR 680-13-04. Eastern Virginia Groundwater Management Area.

§ 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 Groundwater Act of 1973 (§ 62.1-44.83 et seq. of the Code of Virginia).

"Area" means the Eastern Virginia Groundwater Management Area.

"Board" means the State Water Control Board.

"Groundwater management area" means a geographically defined groundwater area in which the board has deemed the levels, supply or quality of groundwater to be adverse to public welfare, health and safety.

"Groundwater" means any water, except capillary moisture, beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir or other body of surface water within the boundaries of this Commonwealth, whatever may be the subsurface geologic structure in which such water stands, flows, percolates or otherwise occurs.

§ 2. Declaration of groundwater management area.

A. The board hereby orders the declaration of the eastern part of Virginia as a groundwater mamagement area. This area shall be known as the Eastern Virginia Groundwater Management Area.

B. The area encompasses the counties of Charles City, Isle of Wight, James City, King William, New Kent, Prince George, Southampton, Surry, Sussex, and York; the areas of Chesterfield, Hanover, and Henrico counties east of Interstate 95; and the cities of Chesapeake, Franklin, Hampton, Hopewell, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg.

C. All aquifers located between the land surface and basement rock within the geographic area defined will be included in the area and will be subject to the corrective controls set forth in Act.

DEPARTMENT OF CORRECTIONS (BOARD OF)

Title of Regulation: **VR 230-30-007. Supervision Fee-Rules, Regulations and Procedures.**

Statutory Authority: § 53.1-5. of the Code of Virginia.

Effective Dates: October 18, 1989 through September 1, 1990

Preamble:

The Office of the Attorney General has ruled that the above cited regulation meets the definition of "regulation" as set out in section 9-6.14:4 (F) of the Code of Virginia, and that the fact that it implements the collection of fees set by statute does not exempt it. Further, that it does affect the behavior of persons (e.g. employers of parolees) other than state employees and parolees themselves, and that it is under the authority of a statute that specifies the use of "rules or regulations".

Considering the advice of the Attorney General and acting under the authoirty of the Code of Virginia, the State Board of Corrections shall promulgate this document under Article 2 of the Administrative Process Act. Pending this action, the Board hereby promulgates this emergency regulation, subject to approval of the governor, as provided for in section 9-6.14:4.1 (C) (5) of the Code of Virginia.

This emergency regulation is submitted to ensure the protection of the Commonwealth and clients' rights, pending more permanent action. It shall terminate on September 1, 1990 or upon the earlier effective date of such similar regulation promulgated through the Administrative Process Act.

Introduction:

The imposition of supervision fees for probationers, parolees and state work releasees, and Community Diversion offenders in Virginia, is consistent with two general trends impacting corrections. First, a politically ascendent fiscal conservatism seeking to limit governmental growth has created a need for additional revenues. Secondly, there is some philosophical movement away from a "rehabilitative" correctional model to a more community oriented "just deserts" approach. In this context, there are justifiable reasons for establishing the fees.

Governments have long set fees for services in lieu of taxes. Toll roads, tunnels, public college tuition, public utility charges and library card charges are all examples of "user fees". Each of these governmental services is optional for the user. Frequently, the fee does not offset the full cost. The charge then is partly symbolic and partly responsible for making the service affordable for the public. The essential point is that the user is not obliged to use the service.

So it is with criminal justice services. Generally, the act of committing a criminal offense is optional. Thus, court services are induced by the offender and costs must be paid. Correctional supervision services by extension are also optional and fee charges are appropriate. While it is arguable whether such fees encourage fiscal responsibility and act as a deterrent, there is little doubt that the fees are perceived as a significant revenue source.

Less tangible but no less attractive philosophically is the notion that the offender must pay his way. Presently, a victim of crime not only loses from the criminal act but as a taxpayer must pay for the costs of apprehension, adjudication and correctional programming. Payment of fees by the offender addresses this issue somewhat. Hopefully it will reinforce the concept that "crime does not pay" and, in fact, costs money.

There are arguments against the fees including their legality; the impact on the officer-client relationship; and the financial burden placed on offenders. While the courts have sustained the fees as reasonable, the treatment issues have not been adequately researched at present.

The concept is not new and has been introduced in a number of states. The fee idea has been in practice since the 1930's in Michigan and the 1940's in Colorado. In recent years, Tennessee, Alabama, Florida, South Carolina, Oklahoma, Texas and now Virginia with the passage of Section 53-19.40 and Section 53.1-150, Code of Virginia have instituted a fee system.

The issues - both pro and con - remain to be scientifically researched and evaluated. Until there are some empirical assessments, supervision fees must be added to the list of correctional practices which seem rational and workable but the efficacy is unproven.

References: Fees for Correctional Services: A Survey Joseph Sasfy, January, 1980

National Institute of Law Enforcement and Criminal Justice

Fee System rules and regulations from the states of Alabama, Florida, South Carolina and Tennessee

VR 230-30-007. Supervision Fee-Rules, Regulations and Procedures.

TABLE OF CONTENTS

SUPERVISION FEE RULES, REGULATIONS AND PROCEDURES

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:

"Delinquency" means that a person is considered delinquent after the missing of one monthly payment.

"Gainful employment" means providing a service for which payment is received.

"Inability to work" means having a verified physical, mental or emotional disability which precludes work or employment for the client.

"Income" means those monies derived from all sources, exclusive of social security and welfare, which a client utilizes for self or familial support.

"Legal dependents" means those persons legally eligible to be listed as exemptions for Federal income tax purposes (See Appendix 2).

"Month" means that any fraction of a month constitutes an entire month.

"Monthly net income" means those monies remaining after non-voluntary deductions, such as taxes or social security, which a client utilizes for self or familial support.

"Part-time employment" means work which does not normally provide the employee a minimum monthly average of 32 hours per week for which he is reimbursed.

"Seasonal employment" means work which begins and terminates within the course of a 12 month period approximately in relation to seasonal changes. Examples would be such as employment in tobacco, apple or seafood production. Work such as construction or surface mining which may be affected by inclement weather is not considered seasonal employment.

"Supervision" (In relation to the Supervision Fee) means that period of time which commences with the statistical opening of the case by the Department of Corrections and any instrumentality thereof or the execution of the Community Release Agreement and continues, subject to the Conditions of Probation or Parole, the Community Release Agreements, or CDI Program Guidelines until such time that the case is terminated, or timely payments for 60 months have been made (See Appendix 11).

"Verification of income" means written documentation establishing the source of monies derived by a client such as check stubs, contracts, legal documents, etc.

§ 1.2. Supersession.

These standards supersede "Supervision Fee Rules and Regulations" adopted by the Board of Corrections on June 15, 1988.

§ 1.3. Eligibility.

Effective July 1, 1988, all adults and juveniles sentenced as adults who meet the following criteria are subject to the provisions of Section 53.1-150, Code of Virginia.

A. Eligible persons are those:

1. Placed on parole, granted suspension of sentence and probation by a court of competent jurisdiction or participating in a work release program pursuant to the provisions of Section 53.1-60 on or after July 1, 1988 and offenders participating in Community Diversion Programs;

2. Under the supervision of the Department of Corrections or instrumentality thereof;

3. Gainfully employed as defined herein; and

4. Who have not been transferred to or from another jurisdiction under the provisions of the Interstate Contract governing the supervision of parolees and probationers.

B. The $15 monthly payment obligation commences 30 days from the date of initial employment. The payment obligation extends throughout the supervision period. However, probationers, parolees and Community Diversion Incentive (CDI) Offenders and work releasees who make timely payments for a total of 60 months and who have not had their supervision revoked or extended shall have no further obligation for the offense(s) for which he was originally placed on probation and parole (See Appendix 1).

C. A person shall not be subject to double monthly fees in the event of concurrent supervision requirements.

D. In the event of concurrent parole and probation or CDI participation, the district/program shall open the case in accordance with existing procedure and the fee collection shall be assigned to the active status.

E. In the event of concurrent work release, parole/community diversion or probation, DOC Accounts Receivable Section shall be responsible for collecting the fees.

F. In the event of persons under the purview of the Division of Adults Commmunity Corrections Post Release Unit by virtue of parole to detainer or placement on mandatory parole while remaining institutionalized, the effective date of fee payment obligation shall coincide with the opening date of district supervision if the initial entry into parole or work release status occurred on or after July 1, 1988.

G. All persons eligible for inclusion in the provisions of Section 53.1-150 are obligated for fee payments unless and until they are exempted by proper authority, are terminated from supervision, or comply with the 60 month provision.

§ 1.4. Exemptions.

A. Section 53.1-150 provides for the exemption of eligible persons from Parole, Work Release, Probation and CDI offenders, the fee payment obligation if approved by proper authority on the grounds of unreasonable hardship, or if such persons are transferred to or received from other jurisdictions under the provision of the Interstate Compact for probation and parole.

B. The exemption authority resides with the Director of the Department of Corrections for work releasees, with the Parole Board for parolees, and with the sentencing court for probationers and CDI offenders.

*Therefore, the Department of Corrections has set forth the exemption criteria below which, in effect, define unreasonable hardship for state work releasees. *The Virginia Parole Board has adopted these criteria as well. The Courts of Virginia are encouraged to use these criteria when considering exemptions for Probationers and CDI offenders.*

C. Unreasonable hardship is deemed to exist when one or more of the following criteria is met:

***1. Insufficient Monthly Net Income of less than $180 per client plus $60 for each legal dependent up to a maximum of $760 because of:*

a. Inadequate earnings;

b. Documented proof of court ordered financial obligations such as restitution, child support or alimony; or

c. Verified uninsured medical expenses, other than non-prescription drugs.

2. Verified Extenuating Circumstances - extenuating circumstances will vary widely and may include natural disasters, high educational or training expenses and other situations in which fee payment would constitute undue hardship on the person or his legal dependents.

*** These monetary amounts are generally based upon City of Richmond Public Welfare assistance levels. The current totals are:*

1 person	*- $180.00*	*6 persons -*	*$510.00*
2 persons -	*260.00*	*7 persons -*	*570.00*
3 persons -	*330.00*	*8 persons -*	*640.00*
4 persons -	*390.00*	*9 persons -*	*700.00*
5 persons -	*460.00*	*10 CDI persons -*	*760.00*

D. The Director of the Department of Corrections herein delegates the exemption authority for 1., Insufficient Income above, concerning work releases to the Work Release Unit Superintendents of state operated programs and to the State and Local Adult Facilities Managers for work releasees who are subject to the Department's Community Release Agreement, but are in local facilities.

E. Authority to exempt for 2., Verified Extenuating Circumstances, is herein delegated to the Regional Administrators, Division of Adult Community Corrections.

F. The Virginia Parole Board has adopted 1., Insufficient Income, as a blanket exemption criterion. Therefore, parolees who meet one or more of the criteria may be declared exempt by the Chief Probation and Parole Officer. The Virginia Parole Board has retained the exemption authority for 2., Verified Extenuating

Circumstances.

G. The Department encourages the courts of Virginia to authorize the Chief Probation and Parole Officer and CDI Program Director to make exemptions based on 1., Insufficient Income, and to retain exemption authority for 2., Verified Extenuating Circumstances, for probationers.

NOTE: The Virginia Parole Board adopted the exemption criteria and approved the exemption and delinquency processes at its May 18, 1981, meeting.

PART II.
ADMINISTRATIVE PROCEDURES.

§ 2.1. Intake Process.

A. Probationers/Parolees and CDI Offenders:

1. All probationers, parolees, and CDI offenders who enter active supervision on or after July 1, 1988, shall have the provisions of Section 53.1-150, and Supervision Fee Rules and Regulations explained to them by the supervising probation and parole officer or CDI case manager, respectively.

2. Explanation of this obligation should occur at the time of initial interview and be evidenced by execution of the Client Introduction Form (See Appendix 3). The form should be distributed to the client, the district case file, CDI case file and the central criminal file if the person is a parolee or to the court file for probationers/CDI offenders unless otherwise directed by the sentencing court.

3. Refusal to sign the Client Introduction Form does not relieve the person of its requirements. The supervising officer should note this occurrence on the form, sign it and distribute the copies as shown above.

4. A Supervision Fee Record card (See Appendix 4) shall be set up on each person entering supervision on or after July 1, 1988, and shall be maintained in accordance with the procedures set forth herein. The respective CDI case manager will be responsible for set up and maintenance of record cards for offenders sentenced to this program.

B. Work Releasees:

1. All work releasees who enter into the Community Release Agreement on or after July 1, 1988, shall have the provisions explained carefully by the appropriate institutional/jail staff in accordance with existing procedures.

2. Explanation of this obligation shall occur at the time of initial program entry and be evidenced by the execution of the revised Community Release Agreement (See Appendix 5).

The agreement should be distributed to the client, the institutional file and the central criminal file.

3. Refusal to sign the Community Release Agreement shall preclude work release program entry within state operated units and shall not relieve an eligible person of its requirements should the person enter a work release program without proper execution of the agreement. The appropriate institutional/jail staff should document this occurrence and distribute copies as shown above.

4. A Supervision Fee Record card (See Appendix 4) shall be set up on each person entering into the Community Release Agreement on or after July 1, 1988, and shall be maintained in accordance with the procedures set forth herein.

§ 2.2. Exemption Process.

A. Persons required to make fee payments under the provisions of Section 53.1-150 may apply for an exemption based on grounds of unreasonable hardship.

B. Transfer to or from another state under the Interstate Compact for probation and parole or CDI offenders, is herein considered as an eligibility criterion and no exemption application is required. Further information is found in the section on transfers.

C. A person may apply for an exemption at any time after entry into active supervision and completion of either the Client Introduction Form or the revised Community Release Agreement. The burden of proof shall be on the person seeking exemption.

D. Since a person must be gainfully employed in order to be eligible to pay, the supervising officer or work release program staff member may, but is not required to go forward with the request until such time as gainful employment has been confirmed. Nor are they required to process more than one exemption request at a time per person.

E. The exemption process in initiated when the person completes the Hardship Exemption Application form (See Appendix 6), attaches the documention, and forwards same to the supervising officer/CDI Case Manager or work release program staff member.

F. Exemption for Insufficient Income:

1. The supervising officer or work release/program staff member or CDI case manager program staff member is required to verify the exemption documentation as directed by the chief probation and parole officer, or the appropriate work release program administrator/CDI program director.

2. The officer or staff member then recommends approval or disapproval by completing Item I of the

application and forwards the application and documentation to the chief officer or work release administrator or CDI program director. One copy should be retained by the supervising officer or work release staff member.

3. The appropriate work release program administrator has exemption authority for Insufficient Income as noted earlier for parolees and work releasees respectively. The chief probation and parole officer/CDI program director may also have such authority for probationers or CDI offenders respectively, if so authorized by the sentencing Court. If appropriate delegation has occurred, the chief probation and parole officer/CDI program director or the appropriate work release program administrator may grant or deny the exemption upon review of the supervising officer's or work release program staff members' recommendation.

4. The exemption application is then completed through Item II and copies distributed to the client, the district/unit file, CDI case file and the central criminal file for parolees, work releasees or the Court for the probationers and CDI offenders, if applicable.

5. In the event of a denial by the chief officer, CDI program director, or the work release administrator for 1., Insufficient Income, the client may reapply for an exemption based on 2., Verified Extenuating Circumstances.

G. Exemption for Verified Extenuating Circumstances:

1. The authority for exemptions based on Verified Extenuating Circumstances has been retained by the Virginia Parole Board for parolees and is held by the courts of Virginia for probationers and CDI offenders. Some courts may choose to delegate this authority to the chief probation and parole officer or CDI program director.

2. For parolees and probationers and CDI officers for whom the chief officer/program director has not been delegated exemption authority, the chief officer/program director will review the supervising officer's documentation and recommendatons, make a recommendation for approval or disapproval in Item II of the application, and forward two copies of the application and documentation to the post release unit manager for parolees and as the sentencing court directs for probationers and CDI offenders. This should be completed within 14 days of receiving the supervising officer's recommendation.

3. The post release unit manager will attach the applications for parolees to the central criminal file and forward same to the Virginia Parole Board within seven days of receiving the application for appropriate action.

4. The Virginia Parole Board and the sentencing Court should note its decision in Item III of the application and return same to the supervising chief officer or CDI program director. The Virginia Parole Board will route its decision via the post release unit manager who will retain a copy of the completed application in the central criminal file. The court may retain a copy at its discretion. The chief officer, or CDI program director, upon receipt of the final Board or court action will distribute copies to the client, district file and CDI case file.

5. The authority for exemptions based on Verified Extenuating Circumstances has herein been delegated to the regional managers of the Division of Adult Community Corrections and the regional administrators of the Division of Adult Institutions for work releasees.

6. In processing such requests for work releasees, the work release administrator will review the work release staff member's documentation and recommendation. He will record his approval or disapproval and forward the request to the regional manager for Adult Community Corrections or regional administrator for Adult Institutions within 14 days of receiving the recommendation.

7. The regional administrator or manager will make a decision, complete Item III, and return the application to the work release administrator within 14 days of receiving the recommendation.

8. The work release administrator will then distribute the copies as shown above within seven days of receiving the deputy director's decision. There is no specific appellate procedure for denial by the exempting authority if the above steps have been carried out properly. However, the client may reapply if his circumstances change significantly.

H. Exemption Termination:

1. Exemptions may be terminated when the reasons for exemption are no longer valid.

2. The supervising officer, CDI case manager or work release program staff member, is responsible for monitoring the exemption reasons as needed, but at least quarterly.

3. When the reasons for exemption are no longer valid, the supervising officer/CDI program director or work release program staff member shall document the invalidity and recommend exemption termination to the chief officer, work release administrator or CDI program director.

4. The chief probation and parole officer/CDI program director or appropriate work release administrator may terminate or recommend termination of an exemption(s) in accordance with the steps noted

above.

5. There is no specific appellate procedure for termination by the exempting authority if the above steps have been carried out properly. However, the client may reapply if his circumstances change significantly.

PART III.
COLLECTION PROCEDURES.

§ 3.1. District Collection Procedures.

A. The chief probation and parole officer and CDI program director are responsible for proper administration, within the probation and parole district or CDI program area, of the fee collection rules and regulations as set forth herein. Subject to the approval of the regional probation and parole manager, or CDI specialist and CDI chief of operations, the chief officer/CDI program director may establish written local office procedures to insure compliance with the rules and regulations. The rules and regulations require that:

1. A Supervision Fee Record card be set up on each case initially received for supervision on or after July 1, 1988 (See Appendix 4);

2. Any part of a month be considered a month (However, a person shall not be liable for payment for the last month of supervision);

3. Payments be made in $15 increments (This allows advance payments but not partial payments);

4. Payments be due no later than the fifth day of each month for the preceding calendar month;

5. Payments be in the form of certified checks, cashier's checks or money orders, made payable to the Department of Corrections (By mutual agreement, the employer may deduct the fee payment from the person's pay and forward the payment to the district office. However, these payments must also be made by certified check, cashier's check, money order, personal check or corporate check made payable to the Department of Corrections);

6. Probation, parole, and CDI offices issue three-part sequentially numbered receipts to offenders upon payment (Original receipts will be given to clients; duplicates remain in respective offices; and, the third copy will be attached to the Supervision Fee Daily Ledger Sheet (See Appendix 8) and forwarded to the Department of Corrections, Accounts Receivable Section. Clients should be strongly urged to retain the receipts in the event of theft or loss);

7. All payments be made in person to the supervising officer/CDI case manager or mailed to the district office/CDI program director's office;

8. Specifically marked envelopes be provided as needed to each person obligated for payment (See Appendix 7);

9. All payments be noted on the Daily Ledger sheet (See Appendix 8) upon receipt by the Probation and Parole Officer or CDI case manager or designee;

10. The Daily Ledger sheet be completed by the close of each business day (Daily ledger sheets should be submitted only when the total funds accumulated are $200 or more. It should be typed in triplicate. Two copies, along with the checks/money orders and the third receipt copy, should be mailed to:

THE DEPARTMENT OF CORRECTIONS
ACCOUNTS RECEIVABLE SECTION
Post Office Box 26963
Richmond, Virginia 23261

One copy should be retained in the district/CDI Office).

11. All entries on Daily Ledger sheets verified and returned to the district office/CDI office by the Accounts Receivable Section be posted to the Supervision Fee Record cards within five days of receipt of the ledger sheet;

12. All Supervision Fee Record cards be posted, as previously noted, no later than the 15th of each month for all activity within the preceding calendar month (The entries will reflect either:

(a) Amount Paid - $15

(b) Exemption - Ex-1; Ex-2

(c) Unemployed - UN

(d) Delinquency - DEL

(e) Interstate - IS

(f) Ineligible - IN

(g) Closed - CL

The entries should reflect the date of the entry and the initials of the person making the entry);

13. All delinquent persons for a calendar month be identified by the appropriate operational program staff no later than the 15th of the following month and the prescribed delinquency procedures initiated;

14. Any shortage be reported immediately to the regional probation and parole manager/regional CDI specialist and to the cash receipts supervisor of the Accounts Receivable Section in writing (Every effort should be made to recover lost or stolen payment

using the client's receipts);

15. Every effort be made to determine the source of unidentified payments (The regional probation and parole manager, cash receipts supervisor of the Accounts Receivable Section and regional CDI specialist should be notified in writing if such efforts are unsuccessful); and

16. Requests for refunds be made to the cash receipts supervisor of the Accounts Receivable Section by the chief probation and parole officer, CDI program director in writing (Any refunds authorized by the cash receipts supervisor shall be in accordance with accepted accounting principles or applicable state requirements).

B. All procedures herein described are subject to any applicable auditing requriements and all records described are governed by any applicable state library or statutory requirements.

§ 3.2. Work Release Collection Procedures.

A. The work release or unit superintendent for persons in state facilities and the state and local unit facilities managers for eligible persons in local programs shall be responsible for the proper administration at the unit or facility(s) for the fee collection rules and regulations set forth herein.

B. Subject to the approval of the regional state and local adult facilities manager, the work release program administrator may establish written local office procedures to insure compliance with the rules and regulations. The rules and regulations require that:

1. A Supervision Fee Record card (See Appendix 4) be set up on each person who enters into the revised Community Release Agreement (See Appendix 5) on or after July 1, 1988. (Any part of a month is considered to be a month. However, a person shall not be liable for payment for the last month of program participation);

2. Payments be made in $15 increments (This allows advance payments but not partial payments);

3. The work release or unit superintendent for persons in state facilities or the state and local adult facilities managers for eligible persons in local programs be responsible for advising the Accounts Receivable Section (work release unit) of any work releasee subject to fee collection;

4. Superintendents or managers be responsible to advise the Accounts Receivable Section (work release unit) when persons are exempted from fee collection or are no longer subject to the provisions of Section 53.1-150;

5. The notice of inclusion, exemption or termination be in writing and contain such information as required by the office of the DOC Comptroller;

6. The accounts receivable manager have final staff authorization to deduct $15 each month from the pay of each eligible person (Advance payments may be received by the manager at his discretion);

7. The deductions be made in a manner consistent with generally accepted accounting principles and in a manner approved by the DOC Comptroller's Office;

8. By the 15th day of each month, the work release supervisor provided the cash receipt's supervisor in the Accounts Receivable Section with a monthly report noting the amount of fees collected and that all monies collected in the preceding calendar month be forwarded. (The actual transfer of funds shall be at such intervals and by such methods consistent with generally accepted accounting principles and as approved by the DOC Comptroller's Office.);

9. All Supervision Fee Record cards be posted no later than the 15th of each month for all activity within the preceding calendar month (The entries reflect either:

(a) Employed - EM

(b) Exemption - EX-la

(c) Unemployed - UN

(d) Delinquency - DEL

(e) Ineligible - IN

(f) Closed - CL); and

10. The entries reflect the date of the entry and the initials of the person making the entry.

B. All refunds must be made in accordance with procedures approved herein. All procedures herein described are subject to any applicable auditing requirements and all records herein described are governed by any applicable state library or statutory requirements.

PART IV.
OPERATIONAL PROCEDURES.

§ 4.1. General Accounting (Accounts Receivable Section) Procedures.

A. The Accounts Receivable Section will be responsible for receiving supervision fee payments from the work releases and district offices for probationers and parolees/CDI offices as prescribed below.

1. The person(s) designated in the Cash Receipts Unit

of the Accounts Receivable Section shall receive such payments, verify the accuracy of the Daily Ledger sheet (See Appendix 8) and return one copy of the Daily Ledger sheet to the sending district within 10 days of its receipt.

2. The Cash Receipts Unit shall prepare for transmittal by the accounts receivable manager, a monthly report (See Appendix 9) concerning fees collected to the deputy director, Adult Community Services.

3. The DOC Comptroller's Office shall, in accordance with generally accepted accounting principles, establish any fiscal procedures necessary to receive, account for, and disburse funds collected under the provisions of Section 53.1-150.

B. All procedures herein described are subject to any applicable auditing requirements and all records herein described are governed by any applicable state library or statutory requirements and local governing requirements.

§ 4.2. Delinquency Procedures.

A. The probation and parole officer/and CDI case manager should make every effort, through effective casework practices, to encourage clients to positively meet their financial obligations, including supervision fee payments.

B. The chief probation and parole officer and CDI program director are responsible for developing written local office procedures, subject to the approval of the regional probation and parole manager and CDI regional specialist or CDI chief of operations, for identifying delinquent clients and for recovering outstanding fee payments.

C. Such procedures must insure that, by the 25th of each month, all persons who have failed to make payment for the preceding calendar month will have been mailed a Supervison Fee Delinquency Notice (See Appendix 10). Persons who miss consecutive payments or become two months in arrears are deemed to be in violation of the Conditions of Parole, Order of Release and Conditions of Mandatory Parole, or the Conditions of Probation or Diversion Agreement (See Appendix 12), whichever is applicable.

D. In the event of such alleged violation by parolees/offenders, action should be taken in accordance with existing violation procedures as outlined in Section 170.00 of the Probation and Parole Officer's Manual and Appendix 1 of the Parole Board's Policy Manual, or Section 53.1-150 of the Code of Virginia respectively.

E. For probationers/CDI offenders, the delinquency should be noted in the supervision history and the sentencing court should be notified of the delinquency and the supervising officer's/case manager's recommendation.

F. Delinquency by state work releasees is less likely as their pay is directed to the Accounts Receivable Section. However, any delinquency should be identified and addressed by the work release program administrator. Becoming two months in arrears may be considered grounds for program removal.

§ 4.3. Transfer Procedures.

Persons subject to the provisions of the supervision fee may transfer from one supervision status to another, from one probation and parole district to another, from one CDI program to another or from Virginia to other states. The general transfer procedures are:

1. Work Release to Parole or Probation:

a. Persons being released from state work release status to probation or parole supervision should be terminated from the work release program in accordance with existing procedures.

b. The appropriate work release program administrator shall notify the accounts receivable manager of the program termination and copy the central criminal record. The Supervision Fee Record card should be marked "closed".

c. The chief probation and parole officer shall enter such persons into supervision as a new case in accordance with the procedures set forth herein.

2. Parole to Probation or Vice Versa:

Persons who conclude either parole or probation supervision but have a continuing probation or parole obligation shall have the supervision fee obligation continued without interruption.

3. Transfers to other Districts:

Persons may transfer to another probation and parole district or from one CDI to another in accordance with existing procedures.

a. The supervision Fee Record card, the Client Introduction form and the Hardship Exemption Application, if applicable, should be included in the final transfer material. The sending district or CDI program should mark the card "closed" and retain a copy.

b. The supervision history should reflect the transfer of these materials and the person's supervision fee status.

c. The receiving district shall continue the supervision fee collection process without interruption.

d. The exemption authority noted herein shall pass

to the receiving chief probation and parole officer for parolees but is retained by the sending chief probation and parole officer or CDI program director, unless otherwise directed by the sentencing court for probationers.

4. Transfer to or from other States:

a. Persons may transfer to or be received from other states in accordance with existing procedures. However, upon the effective date of transfer, they are not eligible for supervision fee payment.

b. Persons seeking transfer to another state are obliged to pay the supervision fee until the effective transfer date, except that they shall not be charged for the last month of supervision. The sending district should mark the card "closed" and retain it.

c. Persons being received for supervision from another state shall be entered into supervision in accordance with the procedures set forth herein.

§ 4.4. Closure Procedures.

A. Persons subject to the provisions of the supervision fee may be terminated for various reasons. The general closure procedures after termination are:

1. Cases should be closed in accordance with existing procedures including a reference to the supervision fee status;

2. The work release accountant shall be advised of any work release case-closing in writing with a copy forwarded to the central criminal file; and

3. The Supervision Fee Record card should be posted with a closed entry and retained in the district/unit/facility, or CDI program file.

B. All procedures herein described are subject to any applicable auditing requirements and all records herein described are governed by any applicable state library or statutory requirements.

/s/ Peter G. Decker, Jr.
Chairman
Board of Corrections

Approved:

/s/ Vivian E. Watts
Secretary, Department of Transportation
Date: September 29, 1989

Approved:

/s/ Gerald L. Baliles
Governor
Date: October 5, 1989

Filed:

/s/ Joan W. Smith
Registrar of Regulations
Date: October 18, 1989

§ 53.1-150 CODE OF VIRGINIA § 53.1-150

to arrest to do so, by a written statement setting forth that the probationer has, in the judgment of the probation officer, violated one or more of the terms or conditions upon which the probationer was released on probation. Such a written statement by a probation officer delivered to the officer in charge of any local jail or lockup shall be sufficient warrant for the detention of the probationer. (Code 1950, § 53-278.5; 1962, c. 327; 1982, c. 636.)

§ 53.1-150. Contributions by persons on parole, probation, and work release; delinquency as grounds for revocation of parole or probation; exemptions. — A. Any person (i) who is placed on parole, who is granted suspension of sentence and probation by a court of competent jurisdiction, who is participating in a community diversion program as provided in § 53.1-181, or who is participating in a work release program pursuant to the provisions of § 53.1-60, (ii) who is under the supervision of the Department, which shall include being under the supervision of a court services officer who is employed by the Department and serves a general district court, or of a community diversion program as provided in § 53.1-181, and (iii) who is gainfully employed, shall be required to contribute fifteen dollars per month or, if such person is under the supervision of a court services officer of a general district court, then, in the discretion of the court, an amount not to exceed fifteen dollars per month, toward the cost of his supervision beginning thirty days from the date he is employed.

Such sums shall be deducted by the parolee, probationer, or participant in a community diversion program from his monthly net earned income and shall be delivered to the Department pursuant to rules and regulations adopted by the Board of Corrections. By prior agreement between an employer and parolee, probationer, or participant in a community diversion program, an employer may deduct fifteen dollars from the monthly earned income of the parolee or probationer and remit such amount to the Department pursuant to rules and regulations adopted by the Board of Corrections. In the case of prisoners employed pursuant to § 53.1-60, such sums shall be deducted by the Director from any wages earned by the prisoners. All such funds collected by the Department shall be deposited in the general fund of the state treasury.

In the event of more than two months' delinquency in making such contributions by a parolee or probationer, such delinquency may constitute sufficient grounds for revocation of his parole or probation. In the event that a probationer or parolee has made timely payments pursuant to this subsection for a total of sixty months without revocation of his probation or parole or extension of the length of his probation or parole, then he shall have no further obligation to contribute toward the cost of his supervision for the offense or offenses for which he was originally placed on probation or parole.

B. The Virginia Parole Board may exempt a parolee from the requirements of subsection A on the grounds of unreasonable hardship, and the sentencing court may exempt a probationer or participant in a community diversion program from the requirements of subsection A on the grounds of unreasonable hardship. The Director may exempt a work releasee from the requirements of subsection A on the grounds of unreasonable hardship. Any parolee or probationer transferred to or from other states under the supervision of the interstate compact for the supervision of parolees or probationers shall be exempt from the requirements of subsection A.

C. The provisions of subsection A shall not apply to any person against whom further proceedings have been deferred pursuant to § 18.2-251. (Code 1950, § 53-19.40; 1981, c. 634; 1982, cc. 492, 636; 1984, c. 668; 1988, c. 824.)

234

Appendix 1

You can file your tax at joint return rates if you meet ALL 3 of the following tests:

1. You could have filed a joint return with your spouse for the year your spouse died, even if you didn't actually do so.

2. Your dependent child, stepchild, adopted child, or foster child lived with you (except for temporary absences, such as for vacation or school).

3. You paid over half the cost of keeping up the home for this child for the whole year.

Check this box on line 5, Qualifying widow(er) with dependent child, and show the year your spouse died in the space provided. Do not claim an exemption for your spouse.

If your spouse died before 1988 and you did not remarry by the end of 1988, you may check the box on line 4 if you meet the tests under **Head of Household.** Otherwise, you must file as single.

Exemptions

Line 6a

For Yourself

Check the box on line 6a unless someone else (such as your parent) can claim you as a dependent.

Line 6b

For Your Spouse

If you file a joint return and your spouse cannot be claimed as a dependent on another person's return, check the box on line 6b. If you file a separate return, you can take an exemption for your spouse only if your spouse is not filing a return, had no income, and was not the dependent of someone else.

If at the end of 1988 you were divorced or legally separated, you cannot take an exemption for your former spouse. If you were separated by a divorce that is not final (interlocutory decree), you are considered married for the whole year.

If your spouse died in 1988 and you did not remarry before the end of 1988, check the box on line 6b if you could have taken an exemption for your spouse on the date of death.

Nonresident Alien Spouse. If you do not file a joint return, you may claim an exemption for your spouse only if your spouse had no income from U.S. sources and is not the dependent of another taxpayer. Check the box on line 6b to claim an exemption for a nonresident alien spouse and enter "NRA" to the right of the word Spouse on line 6b.

Line 6c

Children and Other Dependents

You can take an exemption for each person who is your dependent (defined on this page). Enter the full names and other information for your dependent children and other dependents. If you have more than six dependents, show the information requested in columns (1) through (5) for each of those dependents on an attached statement. When entering the total number of dependents in the boxes to the right of line 6c, be sure to count the dependents listed on the attached sheet.

Page 8

Column (2). If your dependent listed in column (1) was under age 5 on December 31, 1988, enter a check mark in column (2).

Column (3). If your dependent was age 5 or older on December 31, 1988, you must enter his or her social security number. If you don't or if the number entered is incorrect, you may have to pay a penalty.

If your dependent does not have a social security number, he or she may get one by filing **Form SS-5** with a local Social Security Administration office. If your dependent lives in Canada or Mexico, see **Pub. 501, Exemptions, Standard Deduction, and Filing Information,** for details on how to get a social security number for this dependent. If your dependent does not have a number by the time you are ready to file your return, apply for one and enter "Applied for" in column (3).

Column (5). Enter the number of months that your dependent lived with you in 1988. (Temporary absences such as school or vacation are counted as time living in your home.) Write "12" in this column if your dependent was born or died in 1988. If your dependent was not a U.S. citizen but was a resident of Canada or Mexico in 1988, don't enter a number. Instead, write the letter "f" (for foreign).

Children Who Didn't Live With You. If you are claiming a child under the rules explained on page 9 for **Children of Divorced or Separated Parents,** enter the number of children who did not live with you (or who lived with their other parent for the greater part of the year) in the box to the right of line 6c labeled "No. of your children on 6c who didn't live with you due to divorce or separation." You must either:

- check the box on line 6d if your divorce decree or written separation agreement was in effect before 1985 and it states that you can claim the child as your dependent, OR
- attach **Form 8332,** Release of Claim to Exemption for Child of Divorced or Separated Parents, or similar statement. If your divorce decree or separation agreement went into effect after 1984 and it states that you can claim the child as your dependent, you may attach a copy of the following pages from the decree or agreement instead of Form 8332:

1. Cover page (write the other parent's social security number on this page),

2. The page that states you can claim the child as your dependent, and

3. Signature page showing the date of agreement.

Enter the total number of children who did not live with you for reasons other than divorce or separation on the line labeled "No. of other dependents listed on 6c." This includes your dependents who were not U.S. citizens and who resided in Canada or Mexico during 1988.

Birth or Death of Dependent. You can take an exemption for a dependent who was born or who died during 1988 if he or she met the tests for a dependent while alive. This means that a baby who lived only a few minutes can be claimed as a dependent.

For more details, get **Pub. 501, Exemptions, Standard Deduction, and Filing Information.**

Dependent. A dependent is any person who ALL 5 of these tests:

1. Income;
2. Support;
3. Married dependent;
4. Citizenship or residence; and
5. Relationship.

These tests are explained below.

Test 1—Income

In general, the person must have had less than $1,950 of gross income. Gross income does not include nontaxable income, such as welfare benefits or nontaxable social security benefits.

Income received by a permanently disabled person for services performed at a sheltered workshop generally not included in gross income for purposes of the income test. Get Pub. 501 for details.

Special Rules for Your Dependent. Even if your child had income of $1,950 or more, you can claim your child as your dependent if tests 2, 3, and 4 below are met, and:

- your child was under 19 at the end of 1988, or
- your child was enrolled as a full-time student at a school during any 5 months in 1988, or
- your child took a full-time, on-farm training course during any 5 months in 1988. (The course had to be given by a school or a state, county, or local government agency.)

The school must have a regular teaching staff, a regular course of study, and a regularly enrolled body of students in attendance.

A school includes:

- elementary, junior, and senior high schools;
- colleges and universities; and
- technical, trade, and mechanical schools.

However, school does not include on-job training courses or correspondence schools.

Test 2—Support

In general, you must have given over half the dependent's support in 1988. If a joint return, the support can be from you or your spouse. Even if you did not give half of the dependent's support, you can be treated as having given over half of the support if you meet the tests explained on page 9 for **Children of Divorced or Separated Parents** or **Dependent Supported by Two or More Taxpayers.**

In figuring total support, you must include money the dependent used for his or her own support, even if this money is not taxable (for example, gifts, savings, welfare benefits). If your child was a full-time student, do not include amounts he or she received as scholarships.

Support includes items such as food, a place to live, clothes, medical and dental care, recreation, and education. To figure support, use the actual cost of these items. However, the cost of a place to live may be figured at its fair rental value.

Do not include in support: taxes (such as income and social security taxes), or insurance premiums for life insurance, or funeral expenses.

Capital items.—You must include capital items such as a car or furniture in figuring support, but only if they were actually given to, or bought by, the dependent for his or her use or benefit. Do not include the cost of a capital item for the household or for use by persons other than the dependent.

If you cared for a foster child, see **Pub. 501** for special rules that apply.

Children of Divorced or Separated Parents. The parent who has custody of a child for most of the year (the custodial parent) can generally take the exemption for that child if the child's parents together paid more than half of the child's support. This general rule also applies to parents who did not live together at any time during the last 6 months of the year. But the parent who does not have custody, or who has the child for the shorter time (the noncustodial parent), may take the exemption if either a or b below applies.

a. The custodial parent signs **Form 8332,** Release of Claim to Exemption for Child of Divorced or Separated Parents, or similar statement, agreeing not to claim an exemption for the child in 1988, and the noncustodial parent attaches the form, or similar statement, to his or her 1988 tax return. See **Children Who Didn't Live With You** on page 8, for more information.

b. A decree of divorce or separate maintenance (or a written agreement) that was in effect before 1985 states that the noncustodial parent can take the exemption and he or she gave at least $600 for the child's support in 1988. The noncustodial parent must check the box on line 6d for pre-1985 agreements. This rule does not apply if the decree or agreement was revised after 1984 to specify that the noncustodial parent cannot claim the exemption.

Note: In figuring support, a parent who has remarried may count the support provided by the new spouse.

Dependent Supported by Two or More Taxpayers. Sometimes two or more taxpayers together pay more than half of another person's support, but no one alone pays over half of the support. One of the taxpayers may claim the person as a dependent only if the tests for income, married dependent, citizenship or residence, and relationship are met.

In addition, the taxpayer who claims the dependent must:

a. have paid more than 10% of the dependent's support, and

b. attach to his or her tax return a signed **Form 2120, Multiple Support Declaration,** from every other person who paid more than 10% of the support. This form states that the person who signs it will not claim an exemption in 1988 for the person he or she helped to support.

Test 3—Married Dependent

The dependent did not file a joint return. However, if neither the dependent nor the dependent's spouse is required to file, but they file a joint return to get a refund of all tax withheld, you may claim him or her if the other 4 tests are met.

Test 4—Citizenship or Residence

The dependent must have been a citizen or resident of the United States, a resident of Canada or Mexico, or an alien child adopted by and living the entire year with a U.S. citizen in a foreign country.

Test 5—Relationship

The dependent met test a or b below.

a. Was related to you (or your spouse if you are filing a joint return) in one of the following ways:

Child	Great grand-child, etc.	Brother-in-law
Stepchild	Half-brother	Sister-in-law
Mother	Half-sister	Son-in-law
Father	Stepbrother	Daughter-in-law
Grandparent	Stepsister	or, if related by blood:
Great Grand-parent, etc.	Stepmother	Uncle
Brother	Stepfather	Aunt
Sister	Mother-in-law	Nephew
Grandchild	Father-in-law	Niece

Note: Any relationships that have been established by marriage are not treated as ended by death or divorce.

b. Was any other person who lived in your home as a member of your household for the whole year. A person is not a member of your household if at any time during your tax year the relationship between you and that person violates local law.

The word *child* includes:

- Your son, daughter, stepson, stepdaughter, or adopted son or daughter.
- A child who lived in your home as a member of your family if placed with you by an authorized placement agency for legal adoption.
- A foster child (any child who lived in your home as a member of your family for the whole year for whom you did not receive qualified foster care payments).

Income

Examples of Income You Do Not Report

(Do not include these amounts when you decide if you must file a return.)

Welfare benefits.

Disability retirement payments (and other benefits) paid by the Veterans' Administration.

Workers' compensation benefits, insurance damages, etc., for injury or sickness.

Child support.

Gifts, money, or other property you inherited or that was willed to you.

Dividends on veterans' life insurance.

Life insurance proceeds received because of a person's death.

Amounts you received from insurance because you lost the use of your home due to fire or other casualty to the extent the amounts were more than the cost of your normal expenses while living in your home. (You must report as income reimbursements for normal living expenses.)

Certain amounts received as a scholarship (see the instructions for line 7 on page 10).

Cancellation of certain student loans where the student, under the terms of the loan, performs certain professional services for any of a broad class of employers (get Pub. 920).

Examples of Income You Must Report

The following kinds of income should be reported on Form 1040, or related forms and schedules, in addition to the types of income listed on Form 1040, lines 7 through 21b. You may need some of the forms and schedules mentioned below.

Scholarship and fellowship amounts. See the instructions for line 7 on page 10.

Original issue Discount (Schedule B).

Distributions from SEPs and OECa.

Amounts received in place of wages, from accident and health plans (including sick pay and disability pensions) if your employer paid for the policy.

Bartering income (fair market value of goods or services you received in return for your services).

Business expense reimbursements you received that are more than you spent for these expenses.

Tier 2 and supplemental annuities under the Railroad Retirement Act.

Life insurance proceeds from a policy you cashed in if the proceeds are more than the premium you paid.

Your share of profits from S corporations, partnerships, estates and trusts (Schedule E).

Endowments.

Lump-sum distributions (Form 4972). (See page 12.)

Gains from the sale or exchange (including barter) of real estate, securities, coins, gold, silver, gems, or other property (Schedule D or Form 4797).

Gains from the sale of your main home (Schedule D and Form 2119).

Accumulation distributions from trusts (Form 4970).

Prizes and awards (contests, raffles, lottery, and gambling winnings).

Earned income from sources outside the United States (Form 2555).

Director's fees.

Fees received as an executor or administrator of an estate.

Embezzled or other illegal income.

U.S. Citizens Living Abroad

Generally, foreign source income must be reported. Get Pub. 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad, for more details.

Community Property States

Community property states are: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

If you and your spouse live in a community property state, you must follow state law to determine what is community income and what is separate income. However, different rules could apply if:

- you and your spouse lived apart all year,
- you do not file a joint return, and
- no part of the community income you earn is transferred to your spouse.

For details, get **Pub. 555, Community Property and the Federal Income Tax.**

DEPARTMENT OF CORRECTIONS
SUPERVISION FEE

CLIENT INTRODUCTION FORM

NAME: John S. Doe (Print/Type) VSP/SS# 000001

Section 53.1-150, Code of Virginia, was enacted into law by the 1982 General Assembly. It requires that all persons, unless exempted, who are placed on probation, parole and/or work release/Community Diversion Program pay a $15.00 per month supervision fee toward the cost of his/her supervision. The requirement begins thirty (30) days from the date he/she is initially employed.

The following is furnished for your information:

1. The fee is due by the fifth of the month following the thirtieth (30th) day of gainful employment and will continue each month thereafter. If you make timely payments for 60 months without revocation or extension of your probation/parole, you will have no further obligation to pay the fee. Further, you will not be obligated to pay the fee during the last month you are under supervision.

2. Payments may be made at the District Office, or CDI Office, either in person or by mail or in person to the supervising officer or Case Manager.

3. Payments will be made by certified check, cashier's check, or money order made payable to the "Department of Corrections".

4. When you obtain a certified check, cashier's check, or money order, you will be furnished a receipt. Please keep it. It will serve as your proof of payment and may be used in the event of theft or loss.

5. There are provisions for hardship exemptions which will be discussed with you by your supervising officer or CDI Case Manager. If you feel you qualify, you may apply for an exemption.

6. If you become more than two months behind in your payments, your probation, parole or work/release or Community Diversion status may be revoked.

7. In the event of your death or incapacitation your beneficiary is _____.

I have read (or had read to me) and understand the above.

July 1, 1988 — Date
John S. Doe — Client

Nathan Fortescy — Supervising Officer
40 — District

Distribution: Client, District/Unit File, Court/Central File

Appendix 3

SUPERVISION FEE RECORD

CLIENT NAME Jane S. Doe # 000001 P. O. N. Fortescu DIST. # 10
Date of Supervision July 1, 1981 Expiration Date September 30, 1982

Date 1981	Code	By	Date 1982	Code	By	Date 19	Code	By
Jan			Jan (2-5)	$15	NF	Jan		
Feb			Feb (3-5)	$15	NF	Feb		
Mar			Mar (3-31)	$15	NF	Mar		
Apr			Apr (4-19)	$15	NF	Apr		
May			May (6-2)	$15	NF	May		
Jun			Jun (6-30)	$15	NF	Jun		
Jul (7-31)	IN	NF	Jul (8-5)	DEL/pd.	NF	Jul		
Aug (8-31)	$15	NF	Aug (9-2)	$30	NF	Aug		
Sep (9-30)	$15	NF	Sep (9-30)	CL	NF	Sep		
Oct (10-22)	$15	NF	Oct			Oct		
Nov (12-4)	$15	NF	Nov			Nov		
Dec (12-28)	$15	NF	Dec			Dec		

Probation/Parole Codes
A. Amount Paid - $15.00
B. Exemption - Ex-la
C. Unemployed - Un
D. Delinquency - Del
E. Interstate - IS
F. Ineligible - IN
G. Closed - CL

Work Release
A. Employed - EM
B. Exemption - Ex-la
C. Unemployed - Un
D. Delinquency - Del
E. Ineligible - IN
F. Closed - CL

CDI Program
A. Amount Paid - $15.00
B. Exemption - Ex-la
C. Unemployed - Un
D. Delinquency - Del
E. Interstate - IS
F. Ineligible - IN
G. Closed - CL

In the date column, show the actual payment date next the month to which the payment/entry is to be credited.

Appendix 4

DEPARTMENT OF CORRECTIONS
PRE-RELEASE ACTIVITIES
COMMUNITY RELEASE AGREEMENT

NAME: Joe Doe NUMBER: 000002
CORRECTIONAL CENTER: Woodbridge SSN: 000-01-0001
( ) ORIGINAL _____ ( ) REVISION # _____ DATE: July 1, 1988

In accordance with provisions of Section 53.1-60, as amended, of the Code of Virginia the Department of Corrections does hereby extend the limits of confinement for the above named inmate for the purposes and subject to the provisions outlined below:

PROGRAM: Work Release (XX) Study Release ( ) Other ( )
EFFECTIVE DATE: July 1, 1988
ASSIGNED LOCATION: (Name) Woodbridge Cleaners
(Address) 200 Washington Highway, Woodbridge, Virginia
(Employer, School, Facility, or Other)
DURATION: Will Depart Correctional Center at 6:30 a.m.
(Time)
and return not later than 6:00 p.m.
(Time)
by unit van
(Mode of Transportation)
DAYS OF WEEK AUTHORIZED: Tuesday through Saturday
IMMEDIATE SUPERVISOR: Nigel Farnsworth 555-1212
(Name) (Telephone)
AUTHORIZING OFFICIAL: same as above
(Name) (Telephone)
(Employer or School Administrator)
RATE OF PAY: $4.10 hourly), (weekly), (monthly)
HOURS PER WEEK: 40 DAYS PER WEEK: 5
DAILY WORK SCHEDULE: FROM: 7:30 a.m. TO: 4:30 p.m.
REGULAR PAY PERIODS: weekly
DATE FIRST PAYCHECK IS ANTICIPATED: July 5, 1988

CONDITIONS OF AGREEMENT:

1. I hereby authorize the Department of Corrections to pursue all claims on my behalf pertaining to non-payment of Wages.
2. I agree to proceed directly to and from and remain within the confines of my extended area of confinement as outlined above.

Revised 7/1/88
Appendix 5

COMMUNITY RELEASE AGREEMENT
Page 3

16. I understand that failure to adhere to Division Guideline 800 and punishment by the Adjustment Committee may result in my removal from the Program and termination of my Community Release Authorization.
17. I fully understand that I may be expected to complete any study course in which I participate, involving three credit hours or less, prior to being granted parole, and that participation in this release program in no way entitles me, as a matter of right, to be released upon parole at any specific date in the future.
18. In the event I am arrested outside the State of Virginia, I understand that I have the right to contest extradition, and I hereby knowingly waive extradition proceedings, and will return voluntarily to the State of Virginia.*
19. I agree to participate in individual/group sessions and Pre-Release Programs designed to ease my transition back into the community and upgrade my skills for handling problems most commonly encountered by ex-offenders after their release from incarceration.
20. I have been granted permission to participate in a community activity program, under the jurisdiction of the Department of Corrections. In order that this may be accomplished, certain information from my records may be needed. I hereby consent to have information from my official records divulged (including reproduction) to prospective employers, school administrators, and/or appropriate law enforcement agencies.
21. I understand that I am subject to the payment of a monthly supervision fee of $15.00 unless exempted by proper authority. Payments will commence thirty (30) days from the date of initial employment.

I have read or had read any explained to me the above conditions and do hereby agree to abide by these conditions:

July 1, 1988 — Date
Joe Doe — INMATE SIGNATURE

I hereby certify that the above has been read and/or explained to the inmate and I do hereby witness said signature.

July 1, 1988 — Date
Landsberry Von Roosevelt — UNIT SUPERINTENDENT OR HIS DESIGNEE

Appendix 5

DEPARTMENT OF CORRECTIONS
HARDSHIP EXEMPTION APPLICATION

TO: Exempting Authority Virginia Parole Board

Applicant: Doe (Last Name) John (First Name) Socrates (Middle Name)

Probationer SS# _____ Parolee VSP# 000001 Work Releasee VSP# _____
CDI Offender _____

In accordance with Section 53.1-150 of the Code of Virginia, I am requesting an exemption from paying the supervision fee beginning August 1, 1988 (Date) for the following reason(s)

XX 1. Insufficient income due to (a) inadequate earnings, (b) Court ordered financial obligations, (c) Verified uninsured medical expenses other than nonprescription drugs.

_____ 2. Verified Extenuating Circumstances. (Briefly explain)

I understand that if this application is approved, I will be exempt from paying the supervision fee only during that period of time in which the above-noted reason(s) for exemption exist(s).

July 12, 1988 (Date) John S. Doe (Applicant's Signature)

I. Approval XXX Disapproval _____

Reason: Doe has been laid off from his job. However, he is working part-time at another place but earns only $25.00 weekly.

July 14, 1988 (Date) Nathan Fortescu
Supervising Officer/WR
Staff, CDI Case Manager

II. Approval XXX Disapproval _____

Reason: The man's earnings are less than $130.00 net per month.

July 21, 1988 (Date) P. Ramsworthy Legree
Chief Officer/WR
Administrator/CDI Program Director

III. Approval _____ Disapproval _____

Reason: _____

_____ (Date) _____ (Exempting Authority)

Attachments: Current Pay Stubs

Appendix 6

5

Probation and Parole District #15
9625 Gunnyon Court
Suite 220
Manassas, Virginia 22110

Appendix 7

SUPERVISION FEE DAILY LEDGER FOR October 5, 1988

Name	Money Order or Check No.	Amt. Paid	For Month(s) of
Doe, John S.	AS-3118	$15	September
McWirtt, L.B.	11-A11	$15	September
Mandlikova, M.A.	21B-302	$30	August/September

Total Collected $60

Total Money Orders or Checks 3

By: R. Ramsworthy Legree

Probation and Parole District 40
Community Diversion Program _____

Received and Verified on

Date October 8, 1988

Nimrod Natt

Cash Receipts Section
Accounts Receivable Department

Appendix 3

MEMORANDUM

TO: Deputy Director, Adult Community Services

FROM: Accounts Receivable Department

SUBJECT: Supervision Fee Monthly Collection Report

DATE: October 15, 1988

(1) Supervision Fees for September, 1988 (Month) (Year)

(2) Number of clients paid 200

(3) Total amount collected $3,090

Nimrod Natt
Signature
Accounts Receivable Manager

cc: General Accounting Manager

Appendix 9

NOTICE OF SUPERVISION FEE DELINQUENCY

John S. Doe, VSP #000001
Client Name and Number

District office records indicate that you have failed to pay your Supervision Fee for January, 1988.
Date

As you are aware the fee is to be paid by the 5th of each month and failure to do so could result in revocation.

Please contact this office at the earliest possible time.

Nathan Fortescu
Probation and Parole Officer/
Work Release Officer/
CDI Case Manager

40
District #

Appendix 10

SUPERVISION FEE PROCESS

Appendix 11

NEW FLOW CHART PROCESS TO INCORPORATE CDI PROGRAM

APPENDIX 12

COMMUNITY DIVERSION PROGRAM
P. O. Box 40
Chesterfield, Virginia 23832
(804) 796-5959

DIVERSION AGREEMENT

Under the provisions of Section 53.1-180 of the Code of Virginia, the Court has placed you in the Community Diversion Incentive Program this date _____ for a period of _____ by the Honorable _____, Judge, presiding in the _____ Court at _____.

I, _____, hereby agree to participate in the CDI Program subject to conditions as outlined below. I understand that participation in the CDI Program is a privilege and that failure to follow any part of my agreed upon program may result in my expulsion from the CDI Program and imposition of my suspended sentence.

CDI conditions are as follows:

1. To obey all Municipal, County, State, and Federal laws and ordinances.
2. To report any arrests or citations, including traffic tickets, within 3 days to the CDI office.
3. To maintain regular employment, participate in an educational program full time, or a combination of education and employment, and notify the CDI office within 3 days of changes in employment or education.
4. To permit the CDI staff to visit my home and/or place of employment.
5. To follow the CDI staff's instructions and to be truthful and cooperative.
6. Not to use alcoholic beverages in excess. The excessive use of alcohol here is understood to mean that the effects disrupt or interfere with my domestic life, employment, or orderly conduct.
7. Not to illegally use, possesses, or distribute narcotics, dangerous drugs, controlled substances, or drug parpanenalia.
8. Not to use, own, possess, transport, or carry a firearm without the written permission of my Probation and Parole Officer.
9. Not to change my residence, travel outside of a designated area, or leave the State of Virginia without permission of the CDI staff.

I will reside at _____ (Address) _____ (Phone).

APPENDIX 12

DIVERSION AGREEMENT, Page 2

CDI Conditions continued.

10. I will make restitution payments for my offense of $ _____ to _____ at the rate of _____ per _____ until my debt is paid.
11. I will make Court costs payments of $_____ and attorney fees of $_____ at a rate of _____ per _____ until my debt is paid.
12. A. I will pay the supervision fee as required by law.

    B.

    C.

Benefits of CDI. In return for adhering to the preceding conditions, you will receive:

1. Diversion from having to serve time in the penitentiary or jail for present offense(s).
2. Treatment/rehabilitation services.
3. Close supervision by CDI Program to monitor your completion of this diversion contract.

Your minimum date of release from the CDI Program is _____. You will, however, remain under supervision until you receive a final release from the Court.

You are being placed in the CDI Program subject to the conditions listed above. The Court may revoke or extend your participation, and you are subject to arrest upon cause shown by the Court and/or by your Probation and Parole Officer.

You will report as follows:

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: **VR 615-43-10. Non-Agency Placements for Adoption - Adoptive Home Study.**

Statutory Authority: §§ 63.1-25 and 63.1-220.3 of the Code of Virginia.

Effective Dates: October 13, 1989 through October 12, 1990.

SUMMARY

1. REQUEST:

The Governor's approval is hereby requested to adopt emergency regulations entitled "Non-Agency Placements For Adoption - Adoptive Home Study" pursuant to House Bill 1491 passed by the 1989 session of the General Assembly and incorporated into Section 63.1-220 of the Code of Virginia.

2. PURPOSE OF THE REQUEST:

Section 63.1-220 as amended by the 1989 session of the General Assembly becomes effective July 1, 1989. Local departments of social services and licensed child-placing agencies need policy to guide them in implementing the requirements of law.

3. PERSONS AFFECTED BY THESE REGULATIONS:

These regulations affect birth parents, adoptive parents, children placed for adoption, individuals who assist birth in locating a prospective family, individuals who assist adoptive parents in locating a child, physicians, attorneys, licensed child-placing agencies, and local boards of social services.

The purpose of this request to take emergency action is to expedite the policy and guidelines necessary for effective implementation of statutory changes. The proposed regulations establish regulations by which child-placing agencies are to conduct legally mandated home studies in parental placements for adoption. These regulations provide criteria related to:

A. Method of Study

B. Assessment of the Family

C. Approval Period of the Home Study

4. BACKGROUND:

The 1988 General Assembly established a joint subcommittee to study the practice of direct placement of children by their parents for adoption and to develop recommendations for the protection of all children placed for adoption in this manner. The joint subcommittee was instructed to complete its work and present its findings to the 1989 General Assembly.

At the time of the study, direct placement of children by their parents for adoption was legal in Virginia as long as there was no unauthorized placement activity. Unauthorized placement activity was defined as assistance to birth or adoptive parents by anyone other than an authorized agency in effecting the placement of a child. However, a significant number of adoption placements were being arranged illegally each year under the guise of a direct placement by persons other than the child's parents. As a result of these illegal placements, the rights of children, birth parents and adoptive parents who were involved in these placements were often left unprotected.

Illegal placements involve risks to all parties involved in these placements. Some of these risks are described below:

Risks To the Child

- prospective adoptive parents are not evaluated to assess their capacity of adequately parenting a child until after the child's placement in home;

- courts are reluctant to remove the child from an inadequate home when the child has resided in the home for any length of time;

- there are no guarantees that the adoptive parents will legally finalize the adoption. In such cases, the child lacks the security of a permanent home and the child's inheritance rights may be jeopardized;

- accurate medical or background information that may be critical at some future time may not be obtained and provided to the adoptive parents.

Risks To The Birth Parents

- birth parents may not be aware of alternatives to adoption or of counseling opportunities to help them deal with feelings of guilt and loss associated with placing a child for adoption;

- adoptive parents may choose to reject the child or to return the child to the birth parents because of problems encountered. In these situations, birth parents may be required to reimburse adoptive parents for expenses that were paid;

- often, the only attorney involved is the attorney retained by the adoptive parents. In these cases, legal rights of birth parents may not be adequately protected.

Risks To Adoptive Parents

- failure of parties involved to follow all legal procedures may result in the adoptive parents losing the child;

- without adequate health and background information, adoptive parents may later find the child has physical or mental problems with which they are not prepared to deal;

- the desire of prospective adoptive parents to obtain a child may lead them to pay substantial sums to birth parents or intermediaries.

In addition to the risks to the parties involved, less well-to-do prospective adoptive parents are often priced out of the market by their inability to pay substantial fees.

Following a year-long study, the joint subcommittee concluded that the interest of parties involved in direct adoptive placements were best served by limiting adoption placements to those effected by birth parents or legal guardians, local boards of public welfare and licensed child-placing agencies. The subcommittee agreed that physicians, lawyers, clergymen and others who were serving as intermediaries in the placement of children for adoption did not have the expertise or resources to protect and serve all parties.

Consequently, the subcommittee recommended a number of changes to existing legislation that were incorporated into the adoption statutes by the 1989 General Assembly. The statutory changes enable birth parents to place their children for adoption with individuals of their choice; provide procedures for executing consent to the adoption; and specify the penalty for violation of laws governing parental placements. Violations of law include engaging in the activities of a child-placing agency without a license to do so and exchanging money or any other thing of value in connection with the placement and adoption of the child.

The Department worked closely with the subcommittee and with the staff attorney assigned to the subcommittee. The proposed regulations reflect the intent of the legislature and incorporate guidelines provided by national adoption organizations. State of the art literature was reviewed and used, within the parameters of State statute, to guide the development of these regulations.

The current problem that necessitates emergency approval is that statutory changes take effect July 1, 1989 and there is a lack of State Board of Social Services regulations governing adoptive home studies.

5. AUTHORITY TO ACT:

The Code of Virginia, as amended, Sections 63.1-25 and 63.1-220.3, grants the State Board of Social Services the authority to promulgate regulations as may be necessary or desirable to carry out the propose and intent of Title 63.1.

These Adoptive Home Study regulations have been developed pursuant to the enactment of legislation by the 1989 General Assembly. That legislation, House Bill 1491, which amended Section 63.1-220, stipulates that a licensed duly authorized child-placing agency must conduct a home study of the prospective adoptive home in accordance with regulations established by the State Board of Social Services.

6. FISCAL IMPACT:

The Department has recently learned that there will be a fiscal impact resulting from changes in legislation governing parental placement. Since these regulations are based on law, they will have a fiscal impact on both local agencies and the Department. The fiscal impact results from the absence of statutory authority to assess a fee for adoptive home studies.

Section 63.1-236.1 gives the circuit court the authority to assess a fee against adoptive families for services required to be provided by specific sections of the Code. These services include completing investigations of the adoptive home pursuant to Section 63.1-223. In the past, investigations were required by the circuit court in most parental placements and local agencies were able to charge a fee for providing these services.

The new law, however, allows the circuit court to dispense with investigations when all requirements related to execution of consent in the juvenile and domestic relations court have been met. One of the requirements related to execution of consent is that an adoptive home study has been completed. Although the adoptive home study requires the same level of service as an investigation, for which a fee can be assessed, the new section of the Code that requires the adoptive home study is not one of the sections specified in Section 63.1-236.1 for which a fee can be assessed.

Local agencies had been charging up to $170 for investigations in parental placements. In fiscal year 1988/89, there were 406 parental placements. At a cost of $170 for the investigation, it is estimated that fees in the amount of $69,020 were collected by the court or the local agency. Twenty percent ($13,803) of this money was retained by the local agency which provided the service. Eighty percent ($55,216) was used by the Department to reimburse Social Service Block Grant funds. Since fees may not be assessed for adoptive home studies and investigations are no longer required, these regulations will have a fiscal impact on local agencies and on the Department. The Department plans to include a legislative proposal in its 1990 legislative package to amend Section 63.1-236.1 to allow for the assessment of fees for adoptive home studies made pursuant to Section 63.1-220.3 of the Code. Until enabling legislation is passed, local agencies and the Department will absorb the costs.

These regulations will also impact licensed child-placing agencies. Under current law, the court orders local departments of social services to conduct investigations in non-agency placements. The new law provides the court with an opportunity to refer parties to either a local department of social services or a licensed child-placing agency. It is anticipated that many birth and adoptive families will choose to work with a licensed child-placing agency. Licensed agencies anticipate an increase in service applications and most of the agencies are making plans to meet the increased demand.

These regulations have no fiscal impact on birth or adoptive parents.

7. FUTURE DEPARTMENT ACTIVE:

The department of Social Services has developed these emergency regulations following several meetings with agency representatives and individuals that will be impacted by these regulations. Meetings were held to provide interested parties with an opportunity to identify where additional guidelines were needed to effectively implement the legislative changes. Interested persons included representatives from local departments of social services, licensed child-placing agencies, other divisions within the Department, and adoptive parent groups.

Immediately after these emergency regulations are approved and published in the Virginia Register, the Department of Social Services will submit proposed regulations for publication in the Virginia Register of Regulations and solicit public comment for a 60 day period. This will begin the regular (non-emergency) procedure for the Administrative Process.

Also, the new legislation requires the Department to develop and disseminate information to the public regarding the provisions of the law. To meet this requirement, the Department plans to issue a general press release and develop a brochure. The brochure will be distributed to regional bar associations, medical societies, colleges, newspapers, hospitals, and licensed and duly authorized child-placing agencies. The agencies will be asked to further disseminate the brochure within their local communities. An article is being prepared for publication in the State Medical Society and in the State Bar News.

Certification:

/s/ Larry D. Jackson
Commissioner

Concurrence:

/s/ Eva S. Teig
Secretary, Health and Human Resources

PREFACE

It is necessary for the proposed procedures to be published as emergency regulations due to the July 1, 1989, changes to the Code of Virginia, specifically to amend Sections 63.1-220 through 63.1-238. The statutory changes enable birth parents to place their children for adoption with individuals of their choice; provide procedures for executing consent to the adoption; and specify the penalty for violation of laws governing parental placements. The regulations will enable local departments of social services to implement the new legislation in a timely manner.

Due to the effective date of the legislative changes, the attached regulations are being submitted as emergency regulations to be in effect until they can be submitted and approved through the regular Administrative Process Act.

PART 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:

"Adult adoption" means the adoption of any person eighteen years of age or older.

"Adoption" means the legal process in which a person's rights and duties toward birth parents are terminated and similar rights and duties are established with a new family.

"Adoptive home" means any family home selected and approved by a parent, local board of public welfare or social services or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Child" means any person under eighteen years of age.

"Child-placing agency" means any person or agency who places children in foster homes or adoptive homes or a local board of public welfare or social services which places children in foster homes or adoptive homes.

"Non-agency placement" means the placement for purposes of foster care or adoption of a child who is not in the custody of a local board of social services or child-placing agency. Non-agency placements include parental placements, step-parent adoptions, and adult adoptions.

"Parental placement" means the placement of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Person" means any natural person, or any association, partnership or corporation.

"Step-parent adoption" means the adoption of a child by

a new spouse of the birth or adoptive parent.

§ 2.1. Adoptive Home Study.

PART II.
POLICY.

The manner in which a family receives a child for adoption shall have no bearing on how the family is assessed for purposes of adoptive placement. The criteria of capacity for parenthood are the same whether the child was placed by an agency, by the birth parents, or by a legal guardian.

The difference between completing a home study for a child placed by an agency and for a child placed by birth parents is in the role of the agency, not in the assessment of the adoptive family. In an agency placement, the agency approves or denies adoptive applicants based on agency standards. In a parental placement, the agency is to make a recommendation to the court regarding the suitability of the family to adopt. The recommendation is to be based on an assessment of whether the placement is contrary to the best interest of the child. The assessment is based on information gathered during the home study process.

Section 63.1-220.3B6 (Code of Virginia) requires home studies to be conducted according to rules and regulations established by the State Board of Social Services. These are described below.

A. Method of Study.

1. Interviews.

a. There shall be a minimum of three interviews. At least one interview must occur in the home of the adoptive family and, in the case of married applicants, shall be a joint interview with husband and wife.

b. In a parental placement, the agency social worker shall meet at least once with the birth parents and prospective adoptive parents simultaneously.

c. All members of the household shall be interviewed as part of the home study, including children when appropriate.

2. References.

Adoptive applicants shall provide at least two references from individuals who are unrelated to them.

3. Criminal and Child Protective Services Records.

a. Adoptive applicants shall identify any criminal convictions and be willing to consent to a criminal records search.

b. Adoptive applicants shall not have been convicted of a felony or misdemeanor which jeopardizes the safety or proper care of the child.

c. Adoptive applicants shall be willing to consent to a search of the child protective services central registry.

4. Medical Examinations.

Adoptive applicants shall provide a physician's statement that reflects their current health and that states that they are in satisfactory physical and mental health to enable them to provide adequate care for the child.

B. Assessment of the Family.

A thorough assessment of the adoptive family is critical in evaluating whether the placement is contrary to the best interest of the child. The home study shall include, but not be limited to, an assessment of the following criteria, which are based on standards developed by the Child Welfare League of America.

1. Total Personality Functioning.

a. significant life experiences and the individual's response to them;

b. relationships with nuclear and extended family members;

c. work history and the individual's response to work situations;

d. relationships with friends;

e. involvement in community activities;

2. Emotional Maturity.

a. capacity of the family to give and receive love;

b. ability to assume responsibility for the care, guidance and protection of other people;

c. the family's flexibility and ability to change in relation to the needs of others;

d. ability to cope with problems, disappointments and frustrations;

e. ability to accept normal hazards and risks;

f. capacity to take responsiblity for one's own actions;

g. capacity to accept and handle loss;

h. the capacity to understand that adoption is a lifelong experience and that the family may need support over time;

i. capacity to accept professional support.

3. Quality of Relationships.

a. duration and stability of spousal relationship, when married; or with significant others, when single;

b. the capacity of the nuclear and extended family members to accept the adopted child as an equal member of the family;

4. Capacity of Parent.

a. the ability of the family to realistically understand the needs and behaviors of children and the impact of adoption on the child and family;

b. the ability to love and nurture a child born to someone else;

c. the family's willingness to provide linkages to the child's birth family;

d. the family's capacity for feeling satisfaction from contributing to the development of a child;

e. the family's ability to understand and respond to changing developmental, health, and emotional needs of the child.

5. Reasons For Adoption.

a. motivation to adopt;

b. in infant adoptions, the primary motivation to adopt may be infertility. Applicants may want help to understand and cope with feelings about the inability to have a child. When indicated, the agency should assist applicants in obtaining services to help resolve feelings associated with infertility. However, unresolved feelings about childlessness do not necessarily indicate inability to parent a child through adoption.

6. Readiness To Adopt.

a. the ability to make a lifelong commitment to a child not born to them;

b. the ability to accept the circumstances of the child's birth and birth family history;

c. the capacity to understand the lifelong impact of adoption and to help the child deal with adoption related issues at various developmental stages of life.

7. Home and Community Environment.

a. the degree to which the home environment allows for privacy among family members; adequate play areas; and freedom from health and safety hazards;

b. the accessibility of community resources that may be needed for the child.

8. Financial Circumstances of the Family.

The ability of the family to meet the basic needs of the child and family (food, clothing, shelter, and medical care).

C. Approval Period.

A home study conducted for purposes of parental placements shall be approved for a period of 12 months from the date of completion of the study.

/s/ Larry D. Jackson
Commissioner
Department of Social Services
Date: August 13, 1989

/s/ Gerald L. Baliles
Governor
Date: September 21, 1989

/s/ Joan W. Smith
Registrar
Date: October 13, 1989

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF CORRECTIONS (BOARD OF)

Title of Regulation: **VR 230-01-003. Regulations Governing the Certification Process.**

Governor's Comment:

Issues identified in the Department of Planning and Budget's review should be satisfactorily addressed before final submission of the proposed regulations. Such issues primarily involve modifications to enhance the strength and clarity of the regulations.

/s/ Gerald L. Baliles
Date: October 13, 1989

DEPARTMENT OF MOTOR VEHICLES

Title of Regulation: **VR 485-50-8901. Virginia Commercial Driver's License Regulations.**

Governor's Comment:

I have no objection to the proposed regulations. However, I am withholding my final approval pending clarification concerning employers of commercial drivers that may be certified to administer commercial driving skills tests, and pending a review of the public's comments. Internal changes referring to Title 46.2 of the Code should be effected and the effective date of the regulations should be January 1, 1990.

/s/ Gerald L. Baliles
Date: October 14, 1989

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 Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-02-01. Reporting Requirements for Contagious and Infectious Diseases of Livestock in Virginia.** The purpose of the proposed action is to expand disease-reporting requirements to include diseases of poultry and to require this reporting not just by veterinarians but also by diagnostic laboratories and any other reporting entity by the State Veterinarian.

Statutory Authority: §§ 3.1-724 and 3.1-726 of the Code of Virginia.

Written comments may be submitted until November 24, 1989, to W.D. Miller, D.V.M., Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

Contact: Paul J. Friedman, D.V.M., Chief, Bureau of Veterinary Services, Department of Agriculture and Consumer Services, Division of Animal Health, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-2483

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-02-07. Control and Eradication of Pullorum Disease and Fowl Typhoid in Poultry Flocks and Hatcheries and Products Thereof in Virginia.** The purpose of the proposed action is to establish testing requirements for Salmonella enteritidis in commercial laying flocks and breeder flocks of poultry.

Statutory Authority: §§ 3.1-724 and 3.1-726 of the Code of Virginia.

Written comments may be submitted until November 24, 1989, to W.D. Miller, D.V.M., Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

Contact: Paul J. Friedman, D.V.M., Chief, Bureau of Veterinary Services, Department of Agriculture and Consumer Services, Division of Animal Health, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider promulgating regulations entitled: **VR 115-02-17. Rules and Regulations Establishing a Monitoring Program for Avian Influenza and Other Poultry Diseases.** The purpose of the proposed regulation is to establish rules and regulations for the early detection of infectious and contagious diseases of poultry.

Statutory Authority: §§ 3.1-724 and 3.1-726 of the Code of Virginia.

Written comments may be submitted until November 24, 1989, to W.D. Miller, D.V.M., Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

Contact: Paul J. Friedman, D.V.M., Chief, Bureau of Veterinary Services, Department of Agriculture and Consumer Services, Division of Animal Health, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider promulgating regulations entitled: **VR 115-02-18. Rules and Regulations Pertaining to the Disposal of Entire Flocks of Dead Poultry.** The purpose of the proposed regulation is to establish requirements for the disposal of entire flocks of dead poultry.

Statutory Authority: § 3.1-726 of the Code of Virginia.

Written comments may be submitted until November 24, 1989, to W.D. Miller, D.V.M., Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

Contact: Paul J. Friedman, D.V.M., Chief, Bureau of Veterinary Services, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483

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 amending regulations entitled: **VR 125-01-1 through VR 125-01-7. Regulations of the Virginia Alcoholic Beverage Control Board.** The purpose of the proposed action is to receive information from industry, the general public and licensees of the board concerning adopting, amending or repealing the board's regulations.

Notice to the Public

A. Pursuant to the Virginia Alcoholic Beverage Control Board's "Public Participation Guidelines For Adoption Or Amendment of Regulations" (VR 125-01-1, Part V of the Regulations of the Virginia Alcoholic Beverage Control Board), the Board will conduct a public meeting on January 17, 1990, at 10 a.m. in its Hearing Room, First Floor, A.B.C. Board, Main Offices, 2901 Hermitage Road, City of Richmond, Virginia, to receive comments and suggestions concerning the adoption, amendment or repeal of Board regulations. Any group or individual may file with the Board a written petition for the adoption, amendment or repeal of any regulation. Any such petition shall contain the following information, if available.

1. Name of petitioner.

2. Petitioner's mailing address and telephone number.

3. Recommended adoption, amendment or repeal of specific regulation(s).

4. Why is change needed? What problem is it meant to address?

5. What is the anticipated effect of not making the change?

6. Estimated costs and/or savings to regulate entities, the public, or others incurred by this change as compared to current regulations.

7. Who is affected by recommended change? How affected?

8. Supporting documents.

The Board may also consider any other request for regulatory change at its discretion. All petitions or requests for regulatory change should be submitted to the Board no later than November 17, 1989.

B. The Board will also be appointing an Ad Hoc Advisory Panel consisting of persons on its General Mailing List who will be affected by or interested in the adoption, amendment or repeal of Board regulations. This panel will study requests for regulatory changes, make recommendations, and suggest actual draft language for a regulation, if it concludes a regulation is necessary. Anyone interested in serving on such panel should notify the undersigned by November 17, 1989, requesting that their name be placed on the General Mailing List.

C. Applicable laws or regulation (authority to adopt regulations): Sections 4-11, 4-69, 4-69.2, 4-72.1, 4-98.14, 4-103 and 9-6.14:1 et seq., Virginia Code; VR 125-01-1, Part V, Board Regulations.

D. Entities affected: (1) all licensees (manufacturers, wholesalers, importers, retailers) and (2) the general public.

A public meeting will be held on January 17, 1990, at 10 a.m., in the First Floor Hearing Room, 2901 Hermitage Road, Richmond, Virginia, to receive comments from the public.

Statutory Authority: §§ 4-7(1), 4-11, 4-36, 4-69, 4-69.2, 4-72.1, 4-98.14 and 4-103(b) of the Code of Virginia.

Written comments may be submitted until 10 a.m., January 17, 1990.

Contact: Robert N. Swinson, Secretary to the Board, Alcoholic Beverage Control Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616 or SCATS 367-0616

DEPARTMENT OF EDUCATION (STATE BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Education intends to consider amending regulations entitled: **Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits.** The purposes of this major revision are to (i) bring the regulations into line with the amended statute and changes in the industry; (ii) make specific provisions for a Student Tuition Guaranty Fund to protect the contractual rights of students; (iii) provide for upgrading the quality of programs and student services offered at the schools; and (iv) bring these regulations into conformity with changes in statute and regulations governing education of the handicapped.

Statutory Authority: § 22.1-321 of the Code of Virginia.

Written comments may be submitted until November 16, 1989.

Contact: Charles W. Finley, Associate Director, Proprietary Schools, Department of Education, P.O. Box 6-Q, Richmond, VA 23216-6020, telephone (804) 225-2081

DEPARTMENT OF HEALTH (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **Governing the Newborn Screening and Treatment Program.** The purpose of the proposed action is to (i) revise the regulations to include diseases of newborn infants as specified in § 32.1-65 of the Code of Virginia and (ii) clarify the critical time periods for submitting newborn screening tests in order to more accurately test for diseases that are mandated.

Statutory Authority: § 32.1-12 and Article 7 of Chapter 2 of Title 32.1 of the Code of Virginia.

Written comments may be submitted until January 6, 1990.

Contact: J. Henry Hershey, M.D., M.P.H., Genetics Program Director, Department of Health, Division of Maternal and Child Health, James Madison Bldg., 109 Governor St., 6th Floor, Richmond, VA 23219, telephone (804) 786-7367 or SCATS 786-7367

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **Rules and Regulations Governing the Licensing of Commercial Blood Banks and Minimum Standards and Qualification for Noncommercial and Commercial Blood Banks.** The purpose of the proposed action is to update the 1980 regulations to reflect change in federal regulations, American Association of Blood Bank guidelines and current blood banking technology.

Statutory Authority: §§ 32.1-2, 32.1-12, 32.1-42 and 32.1-140 of the Code of Virginia.

Written comments may be submitted until January 8, 1990.

Contact: Dr. Martin A. Cader, Director, Division of Communicable Disease Control, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-6261 or SCATS 786-6261

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider promulgating regulations entitled: **VR 355-34-01. Private Well Regulations.** The proposed regulations will provide construction and location standards for all private wells drilled, whether intended as a potable water supply source or for other purposes. Water quality standards are established for potable water supplies.

A notice of intended regulatory action was originally published on November 24, 1986.

Statutory Authority: § 32.1-176.4 of the Code of Virginia.

Written comments may be submitted until December 1, 1989.

Contact: Donald J. Alexander, Director, Bureau of Sewage and Water Services, Department of Health, Room 500, Madison Bdlg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-1750 or SCATS 786-1750

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **VR 355-34-02. Sewage Handling and Disposal Regulations.** The purpose of this action is to repeal portions of Article 11 of these regulations that duplicate the construction, location, and quality requirements of the Private Well Regulations.

Statutory Authority: § 32.1-176.4 of the Code of Virginia.

Written comments may be submitted until December 1, 1989.

Contact: Donald J. Alexander, Director, Bureau of Sewage and Water Services, Department of Health, Room 500, Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-1750 or SCATS 786-1750

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

† 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: **VR 394-01-6. Virginia Statewide Fire Prevention Code/1987 Edition.** The purpose of the proposed action is to amend the VSFPC to authorize fire officials to enforce the provisions of the 1987 VUSBC, Volume II, Building Maintenance Code pertaining to the installation of fire suppression and alarm systems in existing institutional buildings (Use Group I).

The 1987 edition of the Virginia Statewide Fire Prevention Code is a set of regulations adopted by the Board of Housing and Community Development pursuant to § 27-94 of the Code of Virginia. This code is a mandatory, statewide set of regulations that must be complied with for the protection of life and property from the hazards of fire or explosion. Local governments are empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in erection, alteration, repair, or use of a building or structure. Local

enforcement of this code is optional.

Statutory Authority: §§ 27-94 and 27-97 of the Code of Virginia.

Written comments may be submitted until December 15, 1989.

Contact: Gregory H. Revels, Program Manager, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

† 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: **VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II Building Maintenance Code/1987 Edition.** The purpose of the proposed action is to amend those portions of the USBC pertaining to the installation of fire suppression and alarm systems in existing buildings to include nursing homes, homes for adults, hospitals and other institutional uses (Use Group I).

Volume II - Building Maintenance Code of the 1987 Edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory, statewide, uniform set of regulations that must be complied with in all buildings to protect the occupants from health and safety hazards that might arise from improper maintenance and use. Local enforcement of this code is optional.

Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

Written comments may be submitted until December 15, 1989.

Contact: Gregory H. Revels, Program Manager, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

COUNCIL ON HUMAN RIGHTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Council on Human Rights intends to consider promulgating regulations entitled: **VR 402-01-03. Regulations to Safeguard Virginian's Human Rights from Unlawful Discrimination.** The purpose of these regulations is to supplement the Virginia Human Rights Act (§ 2.1-714 et seq.) which safeguards all individuals within the Commonwealth from unlawful discrimination.

Statutory Authority: 2.1-720.6 of the Code of Virginia.

Written comments may be submitted until November 8, 1989, to Sandra D. Norman, P.O. Box 717, Richmond, Virginia 23206.

Contact: Lawrence J. Dark, Director, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2292, toll-free 1-800-633-5510 or SCATS 225-2292

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-03-01. Regulations Governing the Practice of Physical Therapy.** The purpose of the proposed action is to amend Part I, definitions for relicensure trainee and unlicensed graduate trainee; § 2.4 technical amendments to 6 (b) and 12; § 4.1 endorsement (B); § 7.2 professional hours of practice; § 8.1 Traineeship required in (A) and (B)(1)(2); § 8.2 additional traineeship required for examination; and § 8.4 traineeship for unlicensed graduates.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 20, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925 or SCATS 662-9925

PESTICIDE CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given that the Pesticide Control Board intends to consider promulgating regulations entitled: **Public Participation Guidelines.** The purpose of the proposed action is to establish public participation guidelines governing the Pesticide Control Board.

Statutory Authority: §§ 3.1-249.28 and 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until November 9, 1989.

Contact: C. Kermit Spruill, Jr., Division Director, Department of Agriculture and Consumer Services, Division of Product and Industry Regulation, P.O. Box 1163, Room 403, 1100 Bank St., Richmond, VA 23209, telephone (804) 786-3523

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Pesticide Control Board intends to consider promulgating regulations entitled: **Regulations Establishing Civil Penalties.** The purpose of

the proposed action is to establish civil penalties authorized by the Pesticide Control Act.

Statutory Authority: §§ 3.1-249.28, 3.1-249.30 and 3.1-249.70 of the Code of Virginia.

Written comments may be submitted until November 9, 1989.

Contact: C. Kermit Spruill, Jr., Division Director, Department of Agriculture and Consumer Services, Division of Product and Industry Regulation, P.O. Box 1163, Room 403, 1100 Bank St., Richmond, VA 23209, telephone (804) 786-3523

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Pesticide Control Board intends to consider promulgating regulations entitled: **Regulations Governing Commercial Applicators, Technicians, Product Registration and Business Licenses Pursuant to the Virginia Pesticide Control Act.** The purpose of the proposed action is to establish regulations governing commercial applicators, technicians, product registration, and business licenses and the fees related thereto.

Statutory Authority: §§ 3.1-249.28 and 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until November 9, 1989.

Contact: C. Kermit Spruill, Jr., Division Director, Department of Agriculture and Consumer Services, Division of Product and Industry Regulation, P.O. Box 1163, Room 403, 1100 Bank Street, Richmond, VA 23209, telephone (804) 786-3523

VIRGINIA RACING COMMISSION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intendsto consider promulgating regulations entitled: **Definitions, Licensure, Pari-Mutuel Wagering and Purse Distribution.** The purpose of the proposed regulation is to establish criteria for owner's, owner-operator's, and operator's licenses; establish procedures for the sale and cashing of pari-mutuel tickets and calculation of pools; and establish procedures for the distribution of purse money to participants.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until December 6, 1989, to Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

Contact: William H. Anderson, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider promulgating regulations entitled: **Degree Requirement for Social Work/Social Work Supervision Classification Series.** The purpose of the proposed regulation is to initiate the requirement of possession of a degree from an accredited college/university for applicants for position vacancies in the Social Work/Social Work Supervision classification series.

Statutory Authority: § 63.1-26 of the Code of Virginia.

Written comments may be submitted until November 30, 1989, to Eddie L. Perry, Human Resources Director Senior, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229.

Contact: Peggy Friedenberg, Agency Regulatory Liaison, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217 or SCATS 662-9217

COMMISSION ON VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commission on Virginia Alcohol Safety Action Program intends to consider amending regulations entitled: **VR 647-01-2. VASAP Policy and Procedure Regulations.** The purpose of the proposed action is to consider changes to the Policy and Procedure Manual as it pertains to Certification of VASAP Programs by adding additional requirements and clarification and to consider changes recommended by the Department of Planning and Budget dated August 28, 1989.

Statutory Authority: §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

Written comments may be submitted until November 8, 1989.

Contact: Donald R. Henck, Ph.D., Executive Director, 1001 E. Broad St., Old City Hall Bldg., Box 29, Richmond, VA 23219, telephone (804) 786-5896 or SCATS 786-5896

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commission on Virginia Alcohol Safety Action Program intends to consider amending regulations entitled: **VR 647-01-03. VASAP Case Management Manual.** The purpose of the proposed action is to consider changes to the Case Management Manual as they pertain to ASAP and VASAP operations by adding additional requirements and clarification and to consider changes recommended by the Department of Planning and Budget dated August 28, 1989.

Statutory Authority: §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

Written comments may be submitted until November 8, 1989.

Contact: Donald R. Henck, Ph.D., Executive Director, 1001 E. Broad St., Old City Hall Bldg., Box 28, Richmond, VA 23219, telephone (804) 786-5895 or SCATS 786-5895

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commission on Virginia Alcohol Safety Action Program intends to consider amending regulations entitled: **VR 647-01-04. VASAP Certification Requirements Manual.** The purpose of the proposed action is to consider changes to the Certification Requirements Manual as they pertain to certification of ASAP statewide by adding additional requirements and clarification and to consider changes recommended by the Department of Planning and Budget dated August 28, 1989.

Statutory Authority: §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

Written comments may be submitted until November 8, 1989.

Contact: Donald R. Henck, Ph.D., Executive Director, 1001 E. Broad St., Old City Hall Bldg., Box 28, Richmond, VA 23219, telephone (804) 786-5895 or SCATS 786-5895

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-20-1. Financial Assurance Regulations of Solid Waste Facilities.** The purpose of the proposed regulation is to establish financial assurance requirements for privately-owned waste management facilities, providing for the closure and post-closure care of the facilities.

The Department of Waste Management is considering amendment of these regulations and solicits the comments and recommendations of the public concerning all aspects of the regulations. The considerations and reasons for amendment of the regulations include, but are not limited to, the following: (i) to update the regulations to include recent developments and policies; (ii) to coordinate the requirements of these regulations, other regulations of the department, other Virginia regulations and Code of Virginia; (iii) to consider modification of the requirements relating to several issues, among which are: a) adequacy of the financial assurance required, b) the title of the regulations, and c) the content and form of the financial instruments required; (iv) to clarify the application and implementation of the regulations; and (v) to improve readability, eliminate inconsistencies and correct typographical and other errors.

Statutory Authority: § 10.1-1410 of the Code of Virginia.

Written comments may be submitted until December 1, 1989.

Contact: Robert G. Wickline, PE, Director of Research and Development - DTS, Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2321 or SCATS 225-2321

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-20-10. Solid Waste Management Regulations.** The purpose of the proposed regulation is to establish construction and operational requirements for solid waste management facilities including the closure and permitting of the facilities.

The Department of Waste Management is considering amendment of these regulations and solicits the comments and recommendations of the public concerning all aspects of the regulations. The considerations and reasons for amendment of the regulations include, but are not limited to, the following: (i) to update the regulations to include recent developments and policies, such as the appropriate requirements of the United States Environmental Protection Agency Guidelines for Solid Waste Management; (ii) to coordinate the requirements of these regulations, other regulations of the department, other Virginia regulations and Code of Virginia; (iii) to consider modification of the requirements relating to several issues, among which are: a) open burning of solid waste, b) issuance of a variance, c) issuance of a facility permit, d) landfill liner construction and installation, e) municipal solid waste incinerator ash disposal, and f) application of the requirements to recycled solid waste; (iv) to develop "reserved" sections of the regulations; and (v) to improve clarity, eliminate inconsistencies and correct typographical and other errors.

Statutory Authority: Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1 of the Code of Virginia.

Written comments may be submitted until December 1, 1989.

Contact: Robert G. Wickline, PE, Director of Research and Development - DTS, Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2321 or SCATS 225-2321

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-16-16. Richmond-Crater Interim Water Quality Management Plan.** The purpose of the proposed action is to amend the Plan to provide a basis for long-term implementation of a Combined Sewer Overflow (CSO) Control Plan for the City of Richmond.

The amendment will affect the VPDES permit of the City of Richmond. The approved CSO Control Plan is a technology based solution designed to minimize the impacts of the City's CSOs on the James River. Concerns have been raised that the plan may not be protective of water quality in the river. Applicable laws and regulations include the State Water Control Law; Water Quality Standards (VR 680-21-00); Permit Regulation (VR 680-14-01); Title 40, Parts 35 and 130 of the Code of Federal Regulations; and Section 208 of the Clean Water Act.

Statutory Authority: § 62.1-44.15(3a) and (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., November 27, 1989.

Contact: Curtis J. Linderman, Piedmont Regional Office, State Water Control Board, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-1006

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed amendment is to conduct the review of water quality standards required by federal and state law every three years.

Possible changes to the standards have the potential to impact every VPDES permit holder in the Commonwealth. The range of impact varies from one of additional monitoring costs through upgrades to existing wastewater treatment facilities. Applicable laws and regulations include the State Water Control Law, Permit Regulation (VR 680-14-01), Policy for Nutrient Enriched Waters (VR 680-14-02), Toxics Management Regulation (VR 680-14-03), and Sections 303(c)(2)(B) and 307(a) of the Clean Water Act. Public meetings have been scheduled. See Calendar of Events section for additional information.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m., January 12, 1990.

Contact: Elleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed amendment is to promulgate a numerical water quality standard which will ensure the protection of saltwater and freshwater aquatic life that are sensitive to the toxic effects of ammonia.

If adopted, the amendment will incorporate a water quality standard for ammonia in VR 680-21-01.14 of the water quality standards.

The proposed changes have the potential to impact most municipal VPDES permit holders and meat processing industries in Virginia. The impact varies from one of addiitional monitoring costs through upgrades or installation of biological wastewater treatment facilities.

Applicable laws and regulations include the State Water Control Law, VR 680-14-01 (Permit Regulation) and VR 680-14-03 (Toxics Management Regulation).

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until November 27, 1989.

Contact: Alex Barron, Environmental Program Analyst, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0387

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending reulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the

proposed amendment is to address guidance given by EPA regarding partial compliance with the Clean Water Act § 303(c)(2)(B). This guidance states that human health criteria to support designated uses must be adopted and when a state adopts a human health criterion for a carcinogen, the state needs to select a risk level. The carcinogen proposed for adoption is dioxin.

If adopted, the amendment will incorporate a water quality standard for dioxin and an accompanying risk level in VR 680-21-01.14 of the water quality standards.

The proposed changes have the potential to impact every VPDES permit holder involved with the bleached pulp, paper and timber industries in Virginia. The impact varies from one of additional monitoring costs through upgrades or installation of wastewater treatment facilities.

Applicable laws and regulations include the State Water Control Law, VR 680-14-01 (Permit Regulation), VR 680-14-03 (Toxics Management Regulation), and §§ 303(c)(2)(B) and 307(a) of the Clean Water Act.

Statutory Authority: § 62.44-15(3a) of the Code of Virginia.

Written comments may be submitted until November 27, 1989.

Contact: Alan J. Anthony, Assistant Director of Operations, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0791

GENERAL NOTICES

COUNCIL ON THE ENVIRONMENT

† Public Notice

This is PUBLIC NOTICE of approval from the National Oceanic and Atmospheric Administration to incorporate two program changes into the Virginia Coastal Resources Management Program (VCRMP). These program changes were submitted and approved as Routine Program Implementations (RPIs). Federal consistency with the following state laws and regulations may now be required by the state as provided for in the federal Coastal Zone Management Act:

RPI No. 1 - State Water Control Board Section 401 certification of applications for Section 404 permits to the U.S. Army Corpos of Engineers is added to the Point Source Water Pollution Control Core Regulatory Program of the VCRMP. Section 404 permits are issued for dredging and filling in U.S. waters. This addition updates the VCRMP and strengthens the Commonwealth's ability to review Section 404 permit applications for consistency with the VCRMP goal of protecting water quality and living resources.

RPI No. 2 - The state's regulations and policies regarding the use of tributyltin (TBT) contained in the Virginia Pesticide Use and Application Act administered by the Virginia Department of Agriculture and Consumer Services and in the State Water Control Board's Water Quality Standards (VR 680-21-01.13) are added to the Fisheries Management Core Regulatory Program of the VCRMP. Tributyltin, used in boat paint as an antifoulant, is extremely toxic to shellfish and other marine animals. This addition updates the VCRMP and strengthens the Commonwealth's ability to review federal actions for consistency with the VCRMP goals of protecting finfish and shellfish resources.

Questions regarding the inclusion of these RPIs in the Virginia Coastal Resources Management Program should be directed to:

Council on the Environment
202 North Ninth Street
Ninth Street Office Building
Richmond, Virginia 23219
(804) 786-4500

DEPARTMENT OF LABOR AND INDUSTRY

† Notice to the Public

Notice is hereby given, that pursuant to § 40.1-6 of the Code of Virginia, the Commissioner of the Virginia Department of Labor and Industry has prescribed revised procedures to be followed by department staff in the investigation of complaints relating to the discharge of an employee due to a work-related injury. These revised procedures replace those that were published in the June 19, 1989, Virginia Register and later rescinded in the Virginia Register. The procedures are not subject to the publication procedures required in the Administrative Process Act and are published solely for the purpose of informing the public.

These revised procedures shall be effective immediately, and shall be followed by department staff when investigating complaints alleging violations of § 40.1-27.1, Discharge of Employee for Absence Due to Work-Related Injury Prohibited. These procedures shall apply to all employers who are covered by § 40.1-27.1.

For information contact:

Sharon S. Watson, Director
Division of State Labor Law Administration
Department of Labor and Industry
205 North Fourth Street
P.O. Box 12064
Richmond, VA 23241
(804) 786-2386

October 3, 1989

REVISED DIVISION POLICY STATEMENT 89-6

TO: All Staff, Labor Law Division

FROM: Sharon S. Watson, Director

SUBJECT: Discharge of Employee for Work-Related Injury

EFFECTIVE DATE: Immediately

I. Purpose:

The purpose of this policy is to establish procedures to be followed by the staff of the Labor Law Division in the handling of claims relating to discharge of an employee due to a work-related injury.

II. Scope:

The provisions of this Section shall apply to all employees who are discharged by their employer as a result of a compensable injury except those exempted under § 40.1-2.1.

III. Background:

Heretofore, all inquiries and claims relating to termination of an employee due to absence from work because of a job related injury have been referred to the Industrial Commission for appropriate action, or it has been recommended that the interested party seek advice from an attorney. The 1989 session of the General Assembly enacted § 40.1-27.1 which reads as follows:

§ 40.1-27.1:

"Discharge of employee for absence due to work-related injury prohibited. — It shall be an unfair employment practice for an employer who has established an employment policy of discharging employees who are absent from work for a specified number of days to include in the computation of employee's work absence record any day that such employee is absent from work due to a compensable absence under Title 65.1 of this Code; provided, that such compensable absences can be calculated into an employee's work record for purposes of discharge after all steps of the excessive absenteeism policy have been exhausted. An employer shall not be held in violation of this section if the employee's absence exceeds six months or if the employer's circumstances have changed during such employee's absence so as to make it impossible or unreasonable not to discharge such employee."

IV. Policy:

Hereafter all claims received by this Division which allege discharge due to absence for a work-related injury shall be handled in the following manner:

The complainant shall be referred to his/her employer to determine the employer's discharge policy.

If the emloyer has a policy to discharge an employee for excessive absenteeism and the complainant was absent from work in excess of the specified number of days included in the employer's policy, the employer may lawfully discharge the employee for excessive absences. Absences which are compensable under Title 65.1 may be calculated in the employee/complainant's work record for purposes of discharge after all steps of the excessive absenteeism policy have been exhausted.

The complainant shall be further advised that under Virginia law, employers may discharge an employee for any reason with the exception of the following:

1. Serving on jury panel; § 18.2-465.1; private right of action (employee or an attorney acting on his/her behalf must institute action through the appropriate court for relief).

2. Discharge of employee for filing a workers' compensation claim; § 65.1-40.1; private right of action (employee must retain an attorney to bring action in the appropriate circuit court for relief).

3. Discharge because of discrimination on the basis of race, color, religion, national origin, sex, age, marital status, or disability; Human Rights Act, §§ 2.1-714 through 2.1-725; administered by Council of Human Rights, James Monroe Building, 17th Floor, 101 North 14th Street, Richmond, Virginia 23219, telephone, (804) 225-2292.

Note: Federal law also prohibits discharge because of discrimination on the basis of age, race, color, religion, sex, or national origin; Title VII of the 1964 Civil Rights Act; administered by the federal Equal Employment Opportunity Commission, 400 North Eighth Street, Richmond, Virginia 23240, telephone, (804) 771-2692.

4. Filing a safety or health complaint under the Virginia Occupational Safety and Health Act (VOSH), § 40.1-51.2:1; administered by Discrimination Unit of Virginia Department of Labor and Industry, P.O. Box 12064, Richmond, Virginia 23241-0064, telephone (804) 786-7814.

V. Procedures:

A. Claims filed under this Section shall be documented on Part A of for LLA-6 (Other Assigned Activities). These claims can originate from telephone contacts, letters, personal contacts, or any other method which

will permit sufficient data to be secured to conduct an investigation. This form (LLA-6) has been amended to reflect receipt of claims filed under this Section.

B. The claims shall be assigned to an appropriate staff person for response.

C. A for letter (Attachment 1) shall be utilized to inform the complainant of agency's determination.

D. Quarterly and annual reports of statistics generated by this statute will be compiled by the Central Office Management Information Staff.

LLA-36 ATTACHMENT 1

(TYPE ON LOCAL OFFICE LETTERHEAD)

COMPLAINANT NOTIFICATION OF FINDINGS/§ 40.1-27.1

(complainant's name)

(complainant's address)

Dear (complainant's name):

The claim you filed with this Department alleging you had been terminated by (employer's name) for absence due to a work-related injury has been received.

A review of your claim has revealed no violation of § 40.1-27.1 which prohibits termination for absence due to work-related injuries.

An employer who has a policy to discharge an employee for excessive absences may lawfully terminate an employee who was absent from work in excess of the specified number of days established in the policy. Section 40.1-27.1 allows employers to calculate any day that an employee is absent due to a compensable absence under Title 65.1 for purposes of discharge after all steps of the excessive absenteeism policy have been exhausted.

You should be further advised that under Virginia law, an employer may discharge an employee for any reason with the exception of the following:

1. Serving on jury panel; § 18.2-465.1; private right of action (employee or an attorney acting on his/her behalf must institute action through the appropriate court for relief).

2. Discharge of employee for filing a workers' compensation claim; § 65.1-40.1; private right of action (employee must retain an attorney to bring action in the appropriate circuit court for relief).

3. Discharge because of discrimination on the basis of race, color, religion, national origin, sex, age, marital status, or disability; Human Rights Act, §§ 2.1-714 through 2.1-725; administered by Council of Human Rights, James Monroe Building, 17th Floor, 101 North 14th Street, Richmond, Virginia 23219, telephone, (804) 225-2292.

   Note: Federal law also prohibits discharge because of discrimination on the basis of age, race, color, religion, sex, or national origin; Title VII of the 1964 Civil Rights Act; administered by the federal Equal Employment Opportunity Commission, 400 North Eighth Street, Richmond, Virginia 23240, telephone, (804) 771-2692.

4. Filing a safety or health complaint under the Virginia Occupational Safety and Health Act (VOSH), § 40.1-51.2:1; administered by Discrimination Unit of Virginia Department of Labor and Industry, P. O. Box 12064, Richmond, Virginia 23241-0064, telephone (804) 786-7814.

If you have any questions relative to this investigation, please contact this office.

Sincerely,

(Representative)

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: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

NOTICE OF INTENDED REGULATORY ACTION - RR01
NOTICE OF COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE OF MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT OF PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

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

DEPARTMENT FOR THE AGING

Long-Term Care Ombudsman Program Advisory Council

November 30, 1989 - 9:30 a.m. – Open Meeting
Department for the Aging, 700 East Franklin Street, 10th Floor, Conference Room, Richmond, Virginia. ♿

A semi-annual meeting to include election of new officers and a report of recent program activities.

Contact: Virginia Dize, State Ombudsman, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2271/TDD ☎ , toll-free 1-800-552-3402 or SCATS 225-2271

DEPARTMENT OF AIR POLLUTION CONTROL

† **November 6, 1989 - 7:30 p.m.** – Open Meeting
Courthouse, General District Court Room, Main Street, Courtland, Virginia

The department is holding this meeting to allow public comment on a request for a permit from Hadson Power-11 Southampton to construct and operate a steam-electricity cogeneration plant off of Route 671 near the Hercules Chemical Plant in Southampton County, Virginia. (Informal briefing at 7 p.m.)

Contact: Department of Air Pollution Control, Hampton Roads Regional Office, Old Greenbrier Village, Suite A, 2010 Old Greenbrier Rd., Chesapeake, VA 23320-2168, telephone (804) 424-6707

ALEXANDRIA ALCOHOL SAFETY ACTION PROGRAM POLICY BOARD

† **November 21, 1989 - 4 p.m.** – Open Meeting
Circuit Court Judges Chambers, 520 King Street, Alexandria, Virginia ♿

Locally based policy advisory board which controls and/or gives direction to the program's activities. This board is used as a channel for input to the program as to local needs and direction. Alexandria ASAP Policy Advisory Board is comprised of members from judiciary, bar, enforcement, medical and business community, interested in transportation safety and local drunk driving problems.

Contact: Paul A. Fearson, Executive Director, Suite 210, 421 King St., Alexandria, VA 22314, telephone (703) 838-4266

BOARD FOR ARCHITECTS, LAND SURVEYORS, PROFESSIONAL ENGINEERS AND LANDSCAPE ARCHITECTS

Board for Architects

November 8, 1989 - 9:30 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to (i) approve minutes from September 12, 1989, meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

Board for Land Surveyors

November 30, 1989 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to (i) approve minutes of August 11, 1989, meeting; (ii) review applications; (iii) review and discuss correspondence; and (iv) review enforcement files.

Board for Professional Engineers

November 16, 1989 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to (i) approve minutes of September 13, 1989, meeting; (ii) review applications; (iii) review general correspondence; and (iv) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, toll-free 1-800-552-3016 or SCATS 367-8514

BOARD FOR BRANCH PILOTS

December 13, 1989 - 10 a.m. – Open Meeting
Virginia Port Authority, World Trade Center, Suite 600, Norfolk, Virginia. 🖻

A quarterly business meeting to conduct routine business.

Contact: Florence R. Brassier, Deputy Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8500 or toll-free 1-800-552-3016

VIRGINIA CATTLE INDUSTRY BOARD

† **November 14, 1989 - 9 a.m.** – Open Meeting
Holiday Inn, Staunton, Virginia. 🖻

Fall annual meeting

Contact: Reginald B. Reynolds, Executive Director, P.O. Box 176, Daleville, VA 24083, telephone (703) 992-1992

CHILD-DAY CARE COUNCIL

November 9, 1989 - 9 a.m. – Open Meeting
December 14, 1989 - 9 a.m. – Open Meeting
Koger Executive Center, West End, Blair Building, Conference Rooms A and B, 8007 Discovery Drive, Richmond, Virginia. 🖻 (Interpreter for deaf provided if requested)

A meeting to discuss issues, concerns, and programs that impact licensed child care centers. A public comment period is scheduled at 9 a.m.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9217

CONSORTIUM ON CHILD MENTAL HEALTH

December 6, 1989 - 9 a.m. – Open Meeting
Eighth Street Office Building, 805 East Broad Street, 11th Floor Conference Room, Richmond, Virginia. 🖻

A regular business meeting open to the public, followed by an executive session for purposes of confidentiality; and to review applications for funding of services to individuals.

Contact: Wenda Singer, Chair, Virginia Department for Children, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-2208 or SCATS 786-2208

DEPARTMENT FOR CHILDREN

Advisory Board

† **December 1, 1989 - 10 a.m.** – Open Meeting
Department for Children Conference Room, 11th Floor, 805 East Broad Street, Richmond, Virginia. 🖻 (Interpreter for deaf provided if requested)

Regular meeting of the advisory board.

Contact: Martha Norris Gilbert, Director, Department for Children, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-5991 or (804) 786-8732/TDD ☎

Teen Pregnancy Prevention Task Force

† **November 8, 1989 - 10 a.m.** – Open Meeting
James Monroe Building, 101 North 14th Street, 1st Floor, Conference Room C, Richmond, Virginia. 🖻

A regular business meeting

Contact: Martha J. Frickert, Virginia Department for Children, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-5994

COORDINATING COMMITTEE FOR INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF RESIDENTIAL FACILITIES FOR CHILDREN

November 9, 1989 - 8:30 a.m. – Open Meeting
December 8, 1989 - 8:30 a.m. – Open Meeting
Interdepartmental Licensure and Certification, Office of the Coordinator, Tyler Building, 1603 Santa Rosa Drive, Suite 210, Richmond, Virginia. 🖻

Regularly scheduled meetings to consider such administrative and policy issues as may be presented to the committee.

Contact: John Allen, Coordinator, Interdepartmental Licensure and Certification, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124 or SCATS 662-7124

INTERDEPARTMENTAL COUNCIL ON RATE-SETTING FOR CHILDREN'S FACILITIES

† **November 14, 1989 - 9:30 a.m.** – Open Meeting
Koger Center, Blair Building, 8007 Discovery Drive, Conference Room B, 2nd Floor, Richmond, Virginia. ♿
(Interpreter for deaf provided if requested)

Pursuant the § 2.1-703 of the Code of Virginia, the Interdepartmental Council on Rate-Setting for Children's Facilities will set the council's goals and determine the charge for several task forces.

Contact: Dr. Austin T. Tuning, Director, Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2869

BOARD OF COMMERCE

November 9, 1989 - 11 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting to (i) receive reports from the Director, Department of Commerce, and Chairman, Board of Commerce; (ii) review legislation to be proposed to the General Assembly pursuant to the federal requirement that states begin regulation of real estate appraisers; and (iii) discuss such other matters that may come before the board.

Contact: Alvin D. Whitley, Staff Assistant to Board, Department of Commerce, 3600 W. Broad St., 5th Floor, Office of the Director, Richmond, VA 23230, telephone (804) 367-8564, toll-free 1-800-552-3016 or SCATS 367-8519

BOARD FOR COMMERCIAL DRIVER EDUCATION SCHOOLS

† **November 17, 1989 - 10 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ♿

An open board meeting to conduct regulatory review.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534 or toll-free 1-800-552-3016

STATE BOARD FOR COMMUNITY COLLEGES

† **November 9, 1989 - 2 p.m.** – Open Meeting
Cavalier Oceanfront Hotel, Coral Room D, Virginia Beach, Virginia

An annual meeting. Agenda unavailable.

Budget and Finance and Facilities Committees will meet from 10:30 a.m. to noon, and the State Board Academic and Student Affairs, Audit, and Personnel Committees will meet from noon to 1 p.m. (Coral Rooms A, B & C).

Contact: Joy S. Graham, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2126

DEPARTMENT OF CONSERVATION AND RECREATION

Catoctin Creek Advisory Board

† **November 17, 1989 - 2 p.m.** – Open Meeting
Janelia Farm, Rt. 7 (across from Ashburn Village), Located 6 1/2 miles East of Leesburg, Virginia

The advisory board will meet to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132

Virginia Cave Board

November 11, 1989 - 1 p.m. – Open Meeting
Radford University, 180 Porterfield, Radford, Virginia

A general meeting.

Contact: Dr. John Holsinger, Chairman, ODU, Department of Biological Science, Norfolk, VA 23529, telephone (804) 683-3595

Rappahannock Scenic River Advisory Board

† **November 15, 1989 - 7 p.m.** – Open Meeting
C. M. Bradley Elementary School, Warrenton, Virginia (Between Routes 17 and 29).

The advisory board will meet to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132

BOARD OF CORRECTIONAL EDUCATION

† **November 17, 1989 - 10 a.m.** – Open Meeting
St. Brides Correctional Center, Chesapeake, Virginia. (Interpreter for deaf provided upon request)

A meeting to discuss general business.

Contact: Joan C. Macklin, Conference Secretary, Department of Correctional Education, James Monroe Bldg., 7th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-3315 or SCATS 225-3314

Calendar of Events

BOARD OF CORRECTIONS

November 15, 1989 - 10 am. – Open Meeting
† December 13, 1989 - 10 a.m. – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia.

A regular monthly meeting to consider such matters as may be presented to the Board of Corrections.

Contact: Vivian Toler, Secretary of the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

November 10, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Corrections intends to repeal regulations entitled: **VR 230-01-002. Rules and Regulations for the Purchase of Services for Clients.** The regulation discusses the requirements for purchasing services for clients when such services are not available within the Department of Corrections.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Written comments may be submitted until November 10, 1989.

Contact: Ben Hawkins, Agency Regulatory Coordinator, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3262 or SCATS 674-3262

* * * * * * * *

November 14, 1989 - 1 p.m. – Public Hearing
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Corrections intends to adopt regulations entitled: **VR 230-01-003. Regulations Governing the Certification Process.** These regulations establish the procedures utilized to conduct compliance audits.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Written comments may be submitted until October 16, 1989.

Contact: John T. Britton, Certification Unit Manager, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3237 or SCATS 674-3237

CRIMINAL JUSTICE SERVICES BOARD

† November 15, 1989 - 11 a.m. – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system. The board will consider approval of distribution of the Law Enforcement Communication Equipment Grants.

Virginia Juvenile Justice and Delinquency Prevention Advisory Committee

† November 16, 1989 - 10 a.m. – Open Meeting
Beaumont Learning Center, Beaumont, Virginia.

A meeting to discuss matters relating to the prevention and treatment of juvenile delinquency and the administration of juvenile justice in the Commonwealth.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000

STATE EDUCATION ASSISTANCE AUTHORITY

Board of Directors

November 21, 1989 - 10 a.m. – Open Meeting
State Education Assistance Authority, 6 North 6th Street, Suite 300, Richmond, Virginia

A general business meeting.

Contact: Lyn Hammond, Secretary to the Board, State Education Assistance Authority, 6 N. 6th St., Suite 300, Richmond, VA 23219, telephone (804) 786-2035, toll-free 1-800-792-5626 or SCATS 786-2035

BOARD OF EDUCATION

November 14, 1989 - 8 a.m. – Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia.

† December 4, 1989 - 8 a.m. – Open Meeting
† December 5, 1989 - 8 a.m. – Open Meeting
† January 11, 1990 - 8 a.m. – Open Meeting
† January 12, 1990 - 8 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia. (Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold regularly scheduled meetings. Business will be conducted according to items listed

on the agenda. The agenda is available upon request.

Contact: Margaret Roberts, Community Relations Office, Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540

LOCAL EMERGENCY PLANNING COMMITTEE OF CHARLES CITY COUNTY

November 30, 1989 - 7 p.m. – Open Meeting
Charles City Neighborhood Facility Building, Board of Supervisors Conference Room, Charles City, Virginia. 🗟
(Interpreter for deaf provided if requested)

A meeting to conduct a review of the local plan.

Contact: Fred A. Darden, County Administrator, P.O. Box 128, Charles City, VA 23030, telephone (804) 829-9201

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

† **December 7, 1989 - 5:30 p.m.** – Open Meeting
Chesterfield County Administration Building, 10001 Ironbridge Road, Chesterfield, Virginia. 🗟

The committee will meet to discuss the requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Dept., P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236

LOCAL EMERGENCY PLANNING COMMITTEE OF DANVILLE

† **November 16, 1989 - 3 p.m.** – Open Meeting
2nd Floor Conference Room, Municipal Building, Danville, Virginia. 🗟

Local committee meeting, SARA Title III. Hazardous Material Committee Right-to-Know.

Contact: C. David Lampley, Chairman, 297 Bridge St., Danville, VA 24541, telephone (804) 799-5228

RICHMOND EMERGENCY PLANNING COMMITTEE

† **November 9, 1989 - 7 p.m.** – Open Meeting
Medical College of Virginia Hospital, Main Hospital Room 1-426, Richmond, Virginia

The committee will meet to discuss planning, nominations and other recent developments pertaining to the REPC Committee.

Contact: Thomas E. Price, Captain, Richmond Fire Bureau, 501 N. 9th St., Room 134, Richmond, VA 23219, telephone (804) 780-6660

ROANOKE VALLEY EMERGENCY PLANNING COMMITTEE

† **November 15, 1989 - 9 a.m.** – Open Meeting
General Electric Company, Main Conference Room, 1501 Roanoke Boulevard, Salem, Virginia. 🗟

The committee will meet to (i) receive public comment; (ii) receive reports from community coordinators; and (iii) receive reports from standing committees.

Contact: David Hoback, Deputy Coordinator of Emergency Services, 215 Church Ave., S.W., Roanoke, VA 24011, telephone (703) 981-2425

VIRGINIA EMPLOYMENT COMMISSION

January 3, 1990 - 10 a.m. – Public Hearing
Virginia Employment Commission, 703 East Main Street, Administrative Office Courtroom, Richmond, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to amend regulations entitled: **VR 300-01-3. Virginia Employment Commission Regulations and General Rules - Benefits.** The regulations are being amended to provide guidance for the processing of claims for unemployment compensation in the areas of total and part-total unemployment, partial unemployment, interstate claims, combined wage claims, and miscellaneous benefit provisions.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until December 26, 1989.

Contact: Joseph L. Hayes, Manager Administration/Appeals, 703 E. Main St., Room 302, Richmond, VA 23211, telephone (804) 786-7554

BOARD OF FORESTRY

November 15, 1989 - 8:30 a.m. – Open Meeting
Best Western Kings Quarters, I-95, Exit 40 on Route 30, Doswell, Virginia. 🗟

A general business meeting.

Contact: Barbara A. Worrell, Administrative Staff Assistant, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555, SCATS 487-1230 or (804) 977-6555/TDD ☎

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **November 14, 1989 - 3 p.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia

The board will hold an informal fact-finding conference and, if necessary, the Preneed Committee will meet.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9907

DEPARTMENT OF GAME AND INLAND FISHERIES

November 15, 1989 - 7 p.m. – Open Meeting
Courtland High School, Spotsylvania County, Virginia.

A meeting to receive public comment on the initial draft report of the use of airboats in the Commonwealth as requested by SJR 166 of the 1989 session of the General Assembly.

Contact: Charles A. Sledd, Chief, Education Division, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-6481, toll-free 1-800-252-7717/TDD ☎ or SCATS 367-6481

BOARD OF HEALTH

December 13, 1989 - 9 a.m. – Open Meeting
Department of Health, James Madison Building, 109 Governor Street, Richmond, Virginia.

A working session will be held.

December 14, 1989 - 9 a.m. – Open Meeting
Department of Health, James Madison Building, 109 Governor Street, Richmond, Virginia.

A regular business meeting will be held.

Contact: Sarah H. Jenkins, Secretary to the Board, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-3561

DEPARTMENT OF HEALTH (STATE BOARD OF)

† **December 7, 1989 - 2 p.m.** – Public Hearing
James Madison Building, Room 1000, 10th Floor Conference Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-11-02.02. Regulations Governing the Newborn Screening and Treatment Program.** The rules and regulations governing the newborn screening and treatment program have been revised and amended to include genetic, metabolic, and other diseases of the newborn as specified in §§ 33.1-12 and 32.1-65 et seq. of the Code of Virginia. They specifically clarify the critical time periods for submitting newborn screening tests in an effort to more accurately screen and diagnose newborn diseases.

STATEMENT

The rules and regulations governing the newborn screening and treatment program have been revised and amended to include genetic, metabolic, and other diseases of the newborn as specified in § 32.1-12 and Article 7 (§ 32.1-65 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia. They specifically clarify the critical time periods for submitting newborn screening tests in an effort to more accurately screen and diagnose newborn diseases.

Estimated impact: These regulations have no policy or general public impact.

Statutory Authority: § 32.1-12 and Article 7 of Chapter 2 (§ 32.1-65 et seq.) of the Code of Virginia.

Written comments may be submitted until January 6, 1990.

Contact: J. Henry Hershey, M.D., M.P.H., Genetics Director, Maternal and Child Health, 109 Governor St., 6th Floor, Richmond, VA 23219, telephone (804) 786-7367, SCATS 786-7367

* * * * * * *

† **December 8, 1989 - 10 a.m.** – Public Hearing
James Madison Building, Main Floor Conference Room, 109 Governor Street, Richmond, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Health intends to amend regulations entitled: **VR 355-12-02. State Plan for the Provision of Children's Specialty Services.** The proposed plan will revise the present State Plan of May 1, 1987. The proposals include clarification of covered services, the setting of eligibility resources, limitation for patients receiving large awards through litigation, modified eligibility criteria and addition of Child Development Services Program.

STATEMENT

Basis: Section 32.1-77 of the Code of Virginia authorizes the State Board of Health to prepare, amend, and submit to the appropriate federal authority a state plan for the children's specialty services pursuant to Title V of the United States Social Security Act, as amended. Section 32.1-12 of the Code of Virginia authorizes the board to promulgate regulations.

Purpose:

1. To ensure that services for the treatment and rehabilitation of handicapped children are made available to eligible citizens of the Commonwealth within available appropriations.

2. To qualify for federal funds to implement the plan.

Summary and need: The proposed plan revises the previous state plan of May 1, 1987. The changes in the proposed plan include the following:

1. Incorporation of the Child Development Services Program. This program was transferred from the Division of Maternal and Child Health to the Division of Children's Specialty Services in 1987. The description; scope; content; patient services provided; organizational relationships; process for application, evaluation, treatment, variance and appeal; financial regulations; and financial procedures for this program are included in the plan.

2. Deletion of the registry of the deaf. This registry was transferred to the Department for the Deaf and Hard of Hearing by legislation in 1988.

3. Clarification of covered conditions and services in the existing program specialty clinics.

4. Clarification of hospitalization coverage for patients admitted between clinic sessions if preauthorized by the program director.

5. Addition of procedures for reporting an injury due to any type of accident that has occurred in a child seeking or receiving treatment in the program for the results of said accident. This allows a lien to be processed by the Assistant Attorney General's office in favor of the Commonwealth. A resource limitation is set for eligibility for program services once the litigation has been concluded and a monetary award received by the child.

6. Modification of the eligibility procedures to require application to Medicaid for infants and children with family income that meets current Medicaid requirements for coverage.

These changes represent clarifications and improvement of expression of current operations in the Division of Children's Specialty Services.

Impact: Approximately 3,216 patients are enrolled in the Child Development Services Program. The cost to the families and the cost to the agency for implementation were in existence at the time the program was transferred to the Division of Children's Specialty Services. The funds to cover the agency's cost also were transferred.

Legislation appropriated funds to cover the addition of the comprehensive treatment services for persons from birth to the fifth birthdate who have been identified as having Sickle Cell Disease by the newborn screening program, as required by the Code of Virginia.

The cost to the family of a newborn requiring surgery within 30 days of birth will be the charges for hospitalization prior to 24 hours before surgery. A study of the 1986-87 fiscal year showed that of 11 newborns, all but one had surgery on the date of birth or the next day. The one child had surgery on the third day of life. If the proposed regulation had been in effect, cost savings to Children's Specialty Services would have been $1,528.

Approximately two patients per year will be affected by the reporting procedures for injury due to an accident and the resource limitation for eligibility for program services once the litigation resulting from the accident has been concluded and a monetary award received by the child. There is no cost to the families since the monetary award will cover treatment charges.

Even though the program has not presently seen an increase in Medicaid patients, it is anticipated at least 28 new patients will be covered by "BabyCare" in Fiscal Year 1990.

The estimated savings to the program are as follows:

Limited program coverage for newborns to 24 hours prior to surgery $1,528

Lien/resource limitation $5,832

Medicaid $10,164

Total $17,524

Statutory Authority: §§ 32.1-12 and 32.1-77 of the Code of Virginia.

Written comments may be submitted until January 5, 1990.

Contact: Nancy R. Bullock, R.N., Nurse Consultant, Children's Specialty Services, Virginia Department of Health, 109 Governor St., 6th Floor, Richmond, VA 23219, telephone (804) 786-3691, SCATS 786-3691

* * * * * * * *

† **November 30, 1989 - 10 a.m.** – Public Hearing
James Madison Building, 109 Govenor Street, Main Floor Conference Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-27-01.01. Regulations Governing the Licensing of Commercial Blood Banks and Minimum Standards and Qualifications for Noncommercial and Commercial Blood Banks.** These regulations define the licensure standards and procedures for commercial and noncommercial blood banks.

STATEMENT

Basis, purpose and impact: The revised regulations are authorized by §§ 32.1-2, 32.1-12, 32.1-42 and 32.1-140 of the Code of Virginia. The regulations have been promulgated by the Board of Health for the purpose of defining the minimum standards for the number and qualifications of professional and administrative staff of commercial and noncommercial blood banks, for equipment and facilities of such blood banks, for reporting of certain information relative to the operation of such blood banks, and for licensure standards and procedures as set forth herein. The impact of the regulations is on those commercial and noncommercial blood banks engaged in the collection of blood and blood products from human donors.

Substance and issues: These regulations have been revised to be more consistent with Federal Food and Drug Administration (FDA) regulations, American Association of Blood Banks guidelines and current state-of-the-art blood banking technology.

Provision has been made in the regulations for those noncommercial blood banks or licensed hospitals inspected and accredited by the American Association of Blood Banks to be exempted from the regulations. Enforcement provisions have not been changed. The definition of plasmapheresis has been changed to allow for either manual or automated methods. A temporary supsension of license can result from a failure to obtain or retain FDA certification.

The director of the blood bank is required to spend an average of one day per week in the licensed facility. Personnel requirements have remained essentially unchanged.

Requirements for blood bank facilities have been changed to be consistent with FDA requirements.

Qualifications of donors have remained unchanged with the exception that persons with clinical or laboratory evidence of HIV or who are at high risk for HIV infection are excluded from donating blood. The testing of blood provisions has been changed to include testing for HIV antibody. The requirement for a check on sterile technique concerning the collection of red blood cells has been deleted.

The requirements for reporting statistical data have been reduced to reflect current needs. Application for licensure forms has remained unchanged and the licensure fee has remained at $250 per year.

Statutory Authority: §§ 32.1-12 and 32.1-140 of the Code of Virginia.

Written comments may be submitted until January 8, 1990.

Contact: A. Martin Cader, M.D., Director, Division of Communicable Disease Control, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-6261

* * * * * * * *

November 12, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-28-01.05. Board of Health Regulations Governing Vital Records.** The regulations will specify which items are to be included on official records of birth, death, fetal death, induced abortion, marriage, and divorce.

Statutory Authority: §§ 32.1-250 and 32.1-252 of the Code of Virginia.

Written comments may be submitted until November 12, 1989.

Contact: Russell E. Booker, Jr., State Registrar, Division of Vital Records, Department of Health, P.O. Box 1000, Richmond, VA 23208-1000, telephone (804) 786-6221 or SCATS 786-6221

* * * * * * * *

November 11, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-32-01.01. Regulations Governing Emergency Medical Services.** The purpose of the proposed amendments is to (i) update and clarify minimum standards for provision of emergency medical services and (ii) revise and update Procedures and Guidelines for Basic Life Support Training Programs.

Statutory Authority: § 32.1-12 of the Code of Virginia.

Written comments may be submitted until November 11, 1989.

Contact: Susan D. McHenry, Director, Department of Health, Division of Emergency Medical Services, 1538 E. Parham Rd., Richmond, VA 23228, telephone (804) 371-3500 or toll-free 1-800-523-6019

* * * * * * * *

November 11, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-32-02. Regulations Governing Financial Assistance for Emergency Medical Services.** The purpose of the proposed amendments is to update and clarify mechanisms for administration of the Virginia Rescue

Squad Assistance Fund.

Statutory Authority: §§ 32.1-12 and 32.1-115 through 32.1-116 of the Code of Virginia.

Written comments may be submitted until November 11, 1989.

Contact: Susan D. McHenry, Director, Department of Health, Division of Emergency Medical Services, 1538 E. Parham Rd., Richmond, VA 23228, telephone (804) 371-3500, toll-free 1-800-523-6019 or SCATS 371-3500

* * * * * * * * *

November 16, 1989 - 10 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-28-01.02. Regulations for Disease Reporting and Control.** The regulations are being amended to comply with current disease control policies and statutory requirements.

Statutory Authority: §§ 32.1-12 and 32.1-35 through 32.1-38 of the Code of Virginia.

Written comments may be submitted until November 24, 1989.

Contact: Diane Woolard, M.P.H., Senior Epidemiologist, Department of Health, 109 Governor St., Room 701, Richmond, VA 23219, telephone (804) 786-6261

* * * * * * * * *

November 6, 1989 - 7 p.m. – Public Hearing
County of Henrico, Parham and Hungary Springs Roads, Board Room, Administration Building, Richmond, Virginia

November 13, 1989 - 7 p.m. – Public Hearing
Harrisonburg Electric Commission, 89 West Bruce Street, 2nd Floor Conference Room, Harrisonburg, Virginia

November 14, 1989 - 7 p.m. – Public Hearing
Peninsula Health Center, 416 J. Clyde Morris Boulevard, Auditorium, Newport News, Virginia

November 15, 1989 - 7 p.m. – Public Hearing
Prince William County, Old Board Chambers, 9250 Lee Avenue, Corner of Lee and Grant Avenue, Manassas, Virginia

November 21, 1989 - 7 p.m. – Public Hearing
Norfolk Health Department, Auditorium, 401 Colley Avenue, Norfolk, Virginia

November 28, 1989 - 7 p.m. – Public Hearing
Washington County Public Library, Oak Hill and East Valley Streets, Abingdon, Virginia

November 29, 1989 - 7 p.m. – Public Hearing
Roanoke County Administrative Office, Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to adopt regulations entitled: **VR 355-34-01. Private Well Regulations.** These proposed regulations establish location, construction and water quality standards for private wells.

Statutory Authority: § 32.1-176 of the Code of Virginia.

Written comments may be submitted until December 1, 1989.

Contact: Donald J. Alexander, Director, Bureau of Sewage and Water Services, Department of Health, James Madison Bldg., 109 Governor St., Room 500, Richmond, VA 23219, telephone (804) 786-1750

VIRGINIA HEALTH PLANNING BOARD

† **January 8, 1990 - 9 a.m.** – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-01-01. Guidelines for Public Participation in Developing Regulations.** This regulation sets forth the mechanism by which interested parties may assist the Virginia Health Planning board in developing its regulations.

STATEMENT

Summary, purpose, need: Section 32.1-122.02 of the Code of Virginia requires the Virginia Health Planning Board to promulgate such regulations as may be necessary to effectuate the purposes of Article 4.1 (§ 32.1-122.01 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia. The proposed regulations require the board to establish and maintain a list of parties interested in its regulations, to notify them of intended regulatory actions, and to solicit their assistance in determining what, if any, proposed regulatory material it will offer for public comment. The proposed regulations also stipulate that any interested person may petition the board with respect to reconsideration or revision of existing regulations or the development of new regulations.

The purpose of the proposed regulations is to set forth, as required by the Administrative Process Act, the mechanism by which interested parties may assist the board in developing its regulations. In the absence of these regulations the board would be unable to carry out its

regulatory responsibilities as set forth in the Code of Virginia.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

* * * * * * * *

† **January 8, 1990 - 9 a.m.** – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-02-01. Regulations for Designating Health Planning Regions.** This regulation establishes the process for designating health planning regions and sets forth the characteristics required as a condition of such designations.

STATEMENT

Summary, purpose, need: The proposed regulations establish the process for designating health planning regions and set forth the topographic and demographic characteristics that are required as a condition of such designation. In general the health planning regions must as a group cover the entire state without overlapping, each must consist of one or more planning districts and shall contain at least 500,000 residents, and each shall have multiple levels of medical care services and reasonable travel time to tertiary care. They should also not contain a planning district whose residents rely upon another health planning region for most of their care.

Five geographic regions are now being used by the Virginia Department of Health for purposes of administering community health services and coterminous with the geographic services areas of the existing regional health planning system. These regions will be the health planning regions until otherwise designated by the Virginia Health Planning Board. If the board decides to change the health planning region designations, it shall give notice to affected parties at least 60 days in advance.

The purpose of the proposed regulations is to set forth a framework for partitioning the Commonwealth into areas that will subsequently be served by regional health planning agencies officially designated as such by the Virginia Health Planning Board. In the absence of these regulations the board would not have a sufficient basis for soliciting and acting upon applications of parties seeking to be designated as regional health planning agencies in accordance with the Code of Virginia.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

* * * * * * * *

† **January 8, 1990 - 9 a.m.** – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-02-02. Regulations Governing the Regional Health Plannings Boards.** This regulation establishes the required characteristics of a regional health planning board.

STATEMENT

Subject, purpose, need: The proposed regulations establish the required characteristics of a regional health planning board. In general such a board shall have no more than 30 members, shall consist of both consumers and providers with the former being in the majority, shall have staggered terms with a maximum term of at most four years, shall not allow members to serve more than two consecutive terms, and shall not be self-perpetuating.

The purpose of the proposed regulations is assure that regional health planning boards, which are the governing bodies of designated regional health planning agencies that serve designated health planning regions, comply with the minimum requirements stipulated in § 32.1-122.01 et seq. of the Code of Virginia and otherwise constitute a consistent and reasonable representation of each region's interests and demographic characteristics. In the absence of these regulations the board would not have a sufficient basis for soliciting and acting upon applications of parties seeking to be designated as regional health planning agencies in accordance with the Code of Virginia.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

* * * * * * * *

† **January 8, 1990 - 9 a.m.** – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-02-03. Regulations for Designating Regional Health Planning Agencies.** This regulation establishes the process for designating regional health planning agencies and sets forth the characteristics that are required for such designation.

STATEMENT

Summary, purpose, need: The proposed regulations establish the process for designating regional health planning agencies and set forth the characteristics that are required as a condition of such designation. In general such an agency shall be an independent not-for-profit corporation governed by a regional health planning board that meets the board's requirements, shall employ a full-time chief executive officer with relevant post-baccalaureate education and experience, shall in general maintain staff with appropriate expertise, and shall operate from offices located within its designated health planning region. The designation process involves board evaluation of formal applications submitted in response to notices in the Virginia Register; termination of designation may occur at the request of either the board (which must give the agency at least 30 days to submit information relevant to the board's rationale for considering termination) or the designated agency.

The purpose of the proposed regulations is assure that regional health planning agencies comply with the minimum requirements stipulated in § 32.1-122.01 et seq. of the Code of Virginia and otherwise constitute an effective resource for regional health planning. In the absence of these regulations the board would not have a sufficient basis for soliciting and acting upon applications of parties seeking to be designated as regional health planning agencies in accordance with the Code of Virginia.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

* * * * * * * * *

† **January 8, 1990 - 9 a.m.** – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ♿

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-03-01. Administration of State Funding for Regional Health Planning.** This regulation establishes the administrative rules for distributing state funds appropriated for regional health planning.

STATEMENT

Summary, purpose, need: The proposed regulations establish the administrative rules for distributing state funds appropriated for regional health planning. In general such funds are distributed only to designated regional health planning agencies contingent upon timely completion of work previously agreed to between each such agency and the Department of Health. The designated regional health planning agencies shall apply for such funding; the board shall maintain a prioritized list of desired planning products for reference by those agencies in developing their work plans.

The purpose of the proposed regulations is to foster proper stewardship of state moneys appropriated for regional health planning consistent with § 32.1-122.01 et seq. of the Code of Virginia. In the absence of these regulations the use of those state moneys would be less effective in obtaining the intended results.

Statutory Authority: §§ 32.1-122.02 and 32.1-122.06 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **November 28, 1989 - 9:30 a.m.** – Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ♿

Monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Executive Director, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

† **November 7, 1989 - 9 a.m.** – Open Meeting
† **December 5, 1989 - 9 a.m.** – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ♿ (Interpreter for deaf provided upon request)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Amusement Device Technical Advisory Committee

November 16, 1989 - 9 a.m. – Open Meeting
Fourth Street Office Building, 205 North Fourth Street, 7th Floor Conference Room, Richmond, Virginia.

A meeting to review and discuss regulations pertaining to the construction, maintenance, operation and inspection of amusement devices adopted by the board.

Contact: Jack A. Proctor, CPCA, Deputy Director, Division of Building Regulatory Services, Department of Housing and Community Development, 205 N. Fourth St., Richmond, VA 23219-1747, telephone (804) 786-4752 or (804) 786-5405/TDD

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

† **December 11, 1989 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia.

This meeting is being held to receive public input regarding the Board of Housing and Community Development's intent to amend the 1987 editions of the Virginia Uniform Statewide Building Code, Volume II Building Maintenance Code, and the Virginia Statewide Fire Prevention Code, regarding the installation of fire suppression and alarm systems in existing buildings to include nursing homes, homes for adults, hospitals and other institutinal uses (Use Group I).

Contact: Gregory H. Revels, Program Manager, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **November 17, 1989 - 1 p.m.** – Open Meeting
Mountain Inn, Wintergreen, Virginia.

This will be the regular meeting of the Board of Commissioners of the Virginia Housing Development Authority. The Board of Commissioners will (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. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. 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: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986

COUNCIL ON INDIANS

November 15, 1989 - 2 p.m. – Open Meeting
Old City Hall, 1001 East Broad Street, AT&T Communications Conference Room, 1st Floor, Richmond, Virginia

A regular meeting of the Council on Indians to conduct general business and to receive reports from the council standing committees.

Contact: Mary Zoller, Information Director, Virginia Council on Indians, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9285 or SCATS 662-9285

DEPARTMENT OF LABOR AND INDUSTRY

November 15, 1989 - 10 a.m. – Public Hearing
General Assembly Building, House Room D, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Labor and Industry intends to adopt regulations entitled: **VR 425-01-64. Standard for Boiler and Pressure Vessel Operator Certification.** The proposed regulation provides a uniform standard to be used by the governing bodies of counties, cities, and towns which have adopted ordinances requiring the certification of boiler and pressure vessel operators.

Statutory Authority: § 15.1-11.6 of the Code of Virginia.

Written comments may be submitted until October 30, 1989 to John J. Crisanti, Policy Analyst, Department of Labor and Industry, P.O. Box 12064, Richmond, Virginia 23241.

Contact: John J. Crisanti, Policy Analyst, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2385 or SCATS 786-2385

Safety and Health Codes Board

November 15, 1989 - following 10 a.m. public hearing – Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia.

The board will meet to consider (i) amendment to Air Contaminants Standards, Permissible Exposure Limits, Grant of Petition for Reconsideration and Administrative Stay; (ii) Standard Concerning Control

of Hazardous Sources (Lockout/Tagout); (iii) Request for Variance from Boiler and Pressure Vessel Safety Act - Miniature Hobby Boilers; (iv) Standard for Boiler and Pressure Vessel Operator Certification; (v) Amendment Concerning Revision of Construction Industry Tests and Inspection Records; and (vi) Trenching Standard.

Contact: Jay W. Withrow, Director, Office of Federal Liaison and Technical Support, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-9873

LIBRARY BOARD

† **November 15, 1989 - 9:30 p.m.** – Open Meeting
† **January 18, 1990 - 9:30 a.m.** – Open Meeting
Virginia State Library and Archives, 11th Street at Capitol Square Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. &

A meeting to discuss administrative matters of the Virginia State Library and Archives.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332

STATE LOTTERY BOARD

† **November 21, 1989 - 10 a.m.** – Open Meeting
State Lottery Department, 2201 West Broad Street, Conference Room, Richmond, Virginia. &

A regularly scheduled monthly meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433

* * * * * * * *

November 21, 1989 - 10 a.m. – Public Hearing
State Lottery Department, 2201 West Broad Street, Richmond, Virginia. &

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Lottery Board intends to amend regulations entitled: **VR 447-01-2. Administration Regulations.** The purpose of the proposed action is to amend certain portions of the Administration Regulations which deal with ineligible players, Operations Special Reserve Fund, procedures for small purchases and vendor background checks.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until November 21, 1989.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433 or SCATS 367-9433

* * * * * * * *

November 21, 1989 - 10 a.m. – Public Hearing
State Lottery Department, 2201 West Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Lottery Board intends to amend regulations entitled: **VR 447-02-1. Instant Game Regulations.** The purpose of the proposed action is to amend certain portions of the Instant Game Regulations in order to conform to the State Lottery Law and to refine sections which deal with general operational parameters.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until November 21, 1989.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433 or SCATS 367-9433

* * * * * * * *

November 21, 1989 - 10 a.m. – Public Hearing
State Lottery Department, 2201 West Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Lottery Board intends to adopt regulations entitled: **VR 447-02-2. On-Line Game Regulations.** The purpose of the proposed regulation is to set out general parameters for the on-line game. This includes setting standards and requirements for licensing of on-line lottery retailers, ticket validation, setting the framework for the operations of on-line lottery games and the payment of prizes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until November 21, 1989.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433 or SCATS 367-9433

MARINE RESOURCES COMMISSION

November 7, 1989 - 9:30 a.m. – Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia

The Virginia Marine Resources Commission will meet on the first Tuesday of each month. It hears and decides cases on fishing licensing, oyster ground leasing, environmental permits in wetlands, bottomlands, coastal sand dunes and beaches. It hears and decides appeals made on local wetlands board decisions.

Fishery management and conservation measures are discussed by the commission. The commission is empowered to exercise general regulatory power within 15 days and is empowered to take specialized marine life harvesting and conservation measures within five days.

Contact: Sandra S. Schmidt, Secretary to the Commission, 2600 Washington Ave., Room 303, Newport News, VA 23607-0756, telephone (804) 247-2208

BOARD OF MEDICINE

November 16, 1989 - 8:15 a.m. – Open Meeting
November 17, 1989 - 8:15 a.m. – Open Meeting
November 18, 1989 - 8:15 a.m. – Open Meeting
November 19, 1989 - 8:15 a.m. – Open Meeting
Holiday Inn, Downtown-Williamsburg and Holidome, 814 Capitol Landing Road, Williamsburg, Virginia.

The board will meet on November 16, 1989, to conduct general board business and discuss any other items which may come before the board. The board will also meet on November 17-19, 1989, to review reports, interview licensees and make decisions on discipline matters.

Contact: Eugenia K. Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925 or SCATS 662-9925

* * * * * * * *

November 10, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-02-01. Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture.** The purpose of the proposed action is to amend regulations to clarify the requirements for licensure by endorsement for the practice of medicine and osteopathy.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 10, 1989.

Contact: Hilary H. Connor, M.D., Executive Director, or Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., Richmond, VA 23229-5005, telephone (804) 662-9925 or SCATS 662-9925

* * * * * * * *

November 24, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-03-01. Regulations Governing the Practice of Physical Therapy.** The proposed amendments to the regulations establish provisions for specific institutions, upon approval to utilize more than three physical therapist assistants under the supervision of a single physical therapist, and establish a new fee for reinstatement of an expired license.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 24, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925 or SCATS 662-9925

* * * * * * * *

November 24, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-05-01. Regulations Governing the Practice of Physicians' Assistants.** The proposed amendments are to more clearly define a physician's supervisory responsibilities when delegating to the assistant and establish environment required for specific procedures.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 24, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925 or SCATS 662-9925

* * * * * * * *

December 8, 1989 - 9 a.m. – Public Hearing

Department of Health Professions, 1601 Rolling Hills Drive, Board Room 1, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to adopt regulations entitled: **VR 465-07-01. Certification of Optometrists.** The proposed regulations establish requirements for postgraduate training in therapeutic and pharmaceutical agents, clinical training, and examinations necessary to certify licensed optometrists to administer therapeutic pharmaceutical agents in the treatment of diseases of the eye.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until December 22, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925

Ad Hoc Committee on Optometry

† **December 8, 1989 - 1 p.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 1, Richmond, Virginia.

The committee will review public comments received during the public hearing and discuss the postgraduate training programs and review the Request for Proposal for development of the certification examination of optometrists to treat certain diseases of the human eye with certain therapeutic pharmaceutical agents, and other items which may come before the committee.

Contact: Eugenia K. Dorson, Deputy Executive Director, Department of Health Professions, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

Credentials Committee

December 9, 1989 - 8:15 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia.

A meeting to (i) conduct general business, (ii) conduct interviews, (iii) review medical credentials of applicants applying for licensure in Virginia, and (iv) discuss any other items which may come before this committee.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **November 15, 1989 - 9:30 a.m.** – Open Meeting
James Madison Building, 109 Governor Street, 13th Floor Conference Room, Richmond, Virginia.

A regular monthly meeting. The agenda was published on October 18, 1989, and may be obtained by calling Jane Helfrich.

Tuesday evening - Committee meeting 6 p.m., informal session 8:30 p.m.

Wednesday - Legislative breakfast 7:30 a.m., regular session 9:30 a.m. (See agenda for location.)

Contact: Jane Helfrich, Board Administrator, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Virginia Interagency Coordinating Council

December 6, 1989 - 9 a.m. – Open Meeting
Williamsburg Hilton, 50 Kingsmill Road, Williamsburg, Virginia. (Interpreter for deaf provided if requested)

A meeting of the council according to P.L. 99-457, Part H early intervention program for disabled infants and toddlers and their families is meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services, as lead agency, to develop and implement a statewide interagency early intervention program.

Contact: Michael Fehl, Ed.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710

State Human Rights Committee

† **November 17, 1989 - 9 a.m.** – Open Meeting
Southside Virginia Training Center, Building 1, Conference Room B, Petersburg, Virginia.

A regular meeting to discuss business relating to human rights issues. Agenda items are listed prior to meeting.

Contact: Elsie D. Little, ACSW, State Human Rights Director, Office of Human Rights, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988

STATE MILK COMMISSION

† **November 15, 1989 - 11 a.m.** – Open Meeting
1015 Ninth Street Office Building, Ninth and Grace Streets, Richmond, Virginia. ♿

A routine monthly meeting.

Contact: Mr. C. H. Coleman, Administrator, 1015 Ninth Street Office Bldg., Ninth and Grace Sts., Richmond, VA 23219, telephone (804) 786-2013

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mined Land Reclamation

November 9, 1989 - 2 p.m. – Public Hearing
Division's AML Conference Room, 622 Powell Avenue, Big Stone Gap, Virginia. ♿

A public hearing to give interested persons an opportunity to be heard in regard to the FY1990 Virginia Abandoned Mine Land Construction and Administrative Grant applications to be submitted to the Federal Office of Surface Mining.

Contact: Roger L. Williams, Abadoned Mine Land Manager, P.O. Drawer U, 622 Powell Ave., Big Stone Gap, VA 24219, telephone (703) 523-2925

Division of Mineral Mining

November 8, 1989 - 7 p.m. - Public Hearing
Louisa County Courthouse, Louisa, Virginia. ♿

A public hearig to obtain comments on a proposed granite quarry in Louisa County to be operated by the Luck Stone Corporation. The proposed mine is to be located 4.5 miles north of Mineral, Virginia, off Route 613.

Contact: William O. Roller, Director, P.O. Box 4499, Lynchburg, VA 24502, telephone (804) 239-0602

DEPARTMENT OF MOTOR VEHICLES

December 4, 1989 - 9:30 a.m. – Public Hearing
Department of Motor Vehicles, 2300 West Broad Street, Cafeteria, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to adopt regulations entitled: **VR 485-60-8901. Motor Vehicle Dealer Advertising Practices and Enforcement Regulations.** These regulations relate to (i) the violations of regulated advertising practices which could be considered unfair, deceptive or misleading acts or practices; (ii) the terms, conditions and disclaimers in all forms of advertising media; and (iii) the steps involved in the enforcement process (to include administrative and civil penalties, along with the judicial review process).

Statutory Authority: §§ 46.1-26, 46.1-520 and 46.1-550.5:41 of the Code of Virginia.

Written comments may be submitted until November 24, 1989.

Contact: William A. Malanima, Manager, Dealer and Records Division, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-0455 or SCATS 367-0455

BOARD OF NURSING

November 27, 1989 - 9 a.m. – Open Meeting
November 28, 1989 - 9 a.m. – Open Meeting
November 29, 1989 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A regular meeting to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement, and other matters under the jurisdiction of the board. At 1:30 p.m. on November 27, 1989, the board will consider proposed regulations to establish a registry for clinical nurse specialists and may review comments received on existing regulations as part of the required review.

† **December 14, 1989 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

Special meeting to consider comments on existing regulations and to develop proposed new and amended regulations as described in the Notice of Intended Regulatory Action published in the Virginia Register of Regulations on July 31, 1989. Other matters under the jurisdiction of the board may be considered.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909

Regulation Committee

November 9, 1989 - 10 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A meeting to (i) review written comments and a transcript of a public hearing regarding proposed regulations to establish a registry for clinical nurse specialists; (ii) develop responses to comments; and

(iii) make recommendations on proposed regulations to be considered by the Board of Nursing at its meeting on November 27, 1989, at 1:30 p.m.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or SCATS 662-9909

BOARD OF NURSING HOME ADMINISTRATORS

December 6, 1989 - 8 a.m. – Open Meeting
December 7, 1989 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ♿

National and state examinations will be given to applicants for licensure for nursing home administrators.

Board committee meetings.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9111

BOARD OF OPTOMETRY

† **November 13, 1989 - 11 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Surry Building, Richmond, Virginia

The board will hold two formal hearings.

Contact: Catherine Walker Green, Executive Director, Board of Optometry, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9910

VIRGINIA OUTDOORS FOUNDATION

† **November 20, 1989 - 10:30 a.m.** – Open Meeting
State Capitol, House Room 1, Richmond, Virginia. ♿

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-5539

PENINSULA ALCOHOL SAFETY ACTION PROGRAM POLICY BOARD

November 28, 1989 - 12:15 p.m. – Open Meeting
760 J. Clyde Morris Boulevard, Newport News, Virginia

A meeting to (i) review program statistical report; (ii) discuss countermeasure activities; and (iii) discuss concerns and issues of Peninsula ASAP.

Contact: T. L. Fitzgerald, Director, 760 J. Morris Blvd., Newport News, VA 23601, telephone (804) 595-3301

PESTICIDE CONTROL BOARD

November 15, 1989 - 1 p.m. – Open Meeting
November 15, 1989 - 7:30 p.m. – Open Meeting
November 16, 1989 - 9 a.m. – Open Meeting
Holiday Inn Koger Center South, 1021 Koger Center Boulevard, New Room, Richmond, Virginia. ♿

A meeting to discuss priorities and receive reports from staff. Interested persons should first call the contact person to confirm meeting times and places.

November 15, 1989 - 1 p.m. - Committee meetings
7:30 p.m. - Training/Planning

November 16, 1989 - 9 a.m. - Open meeting

Contact: C. Kermit Spruill, Jr., Director, Department of Agriculture and Consumer Services, Division of Product and Industry Regulation, P.O. Box 1163, Room 403, Richmond, VA 23209, telephone (804) 786-3523 or SCATS 786-3523

BOARD OF PHARMACY

† **November 14, 1989 - 8:30 a.m.** – Open Meeting
Department of Health Professiona, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia

The committee will meet to review inspection and drug audit plans.

Contact: Jack B. Carson, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911

* * * * * * * * *

November 29, 1989 - 9:30 a.m. – Public Hearing
Holiday Inn-West End, 6532 West Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to adopt regulations entitled: **VR 530-01-02. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.** The proposed regulation provides licensing and regulatory standards for practitioners of the healing arts to sell controlled substances.

Statutory Authority: §§ 54.1-2400(6), 54.1-2914 and 54.1-3302 of the Code of Virginia.

Written comments may be submitted until November 29, 1989.

Contact: Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9911

COMMISSION ON PRISON AND JAIL OVERCROWDING

† **November 9, 1989 - 9:30 a.m.** – Open Meeting
General Assembly Building, House Room D, Richmond, Virginia.

A full commission meeting.

Contact: Kris Ragan, Ninth Street Office Bldg., 3rd Floor, Room 329, Richmond, VA 23219, telephone (804) 786-1688

VIRGINIA RACING COMMISSION

† **November 16, 1989 - 9:30 a.m.** – Open Meeting
VSRS Building, 1204 East Main Street, Richmond, Virginia.

A regularly scheduled meeting of the commission.

Contact: William H. Anderson, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

REAL ESTATE BOARD

December 7, 1989 - 10 a.m. – Open Meeting
December 8, 1989 - 10 a.m. – Open Meeting
Council Chambers, Municipal Building, 215 Church Avenue, 4th Floor, Roanoke, Virginia

The board will meet to conduct a formal hearing:

File Numbers 86-00183, 87-01417, 88-01102
The Real Estate Board v. Floyd Earl Frith

and

File Numbers 86-00183, 87-01417
The Real Estate Board v. Kenneth Gusler, Jr.

† **December 15, 1989 - 10 a.m.** – Open Meeting
Council Chambers, City Hall, Second Floor, 7th and Main Streets, Charlottesville, Virginia

The board will meet to conduct a formal hearing:

File Number 89-00696

The Real Estate Board V. James E. Craig

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8524

DEPARTMENT FOR RIGHTS OF THE DISABLED (BOARD FOR)

November 13, 1989 - 10 a.m. – Public Hearing
November 13, 1989 - 4 p.m. – Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Rights of the Disabled intends to adopt regulations entitled: **VR 602-01-2. Nondiscrimination Under State Grants and Programs.** These regulations prohibit discrimination on the basis of disability by programs or activities receiving state funds.

Statutory Authority: §§ 51.5-33 and 51.5-40 of the Code of Virginia.

Written comments may be submitted until November 13, 1989.

Contact: Bryan K. Lacy, Systems Advocacy Attorney, Department for Rights of the Disabled, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

December 23, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: **VR 615-01-26. Aid to Dependent Children (ADC) Programs - Deprivation Due to the Incapacity of a Parent.** The purpose of the proposed action is to amend Aid to Dependent Children (ADC) Program policy to require the limited employment opportunities of handicapped individuals to be considered in the determination of eligibility for ADC based on a parent's incapacity. The regulation is being amended in order to comport with federal regulations at 45 CFR § 233.90(a).

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

Written comments may be submitted until December 23, 1989, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenberg, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9217

VIRGINIA SOIL AND WATER CONSERVATION BOARD

† **December 6, 1989 - 9 a.m.** – Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia

A regular bi-monthly meeting and joint meeting with the Virginia Association of Soil and Water Conservation Districts.

Contact: Donald L. Wells, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

November 9, 1989 - 9:30 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A meeting to (i) approve minutes of July 13, 1989; (ii) discuss examination; and (iii) review correspondence.

Contact: Peggy J. Wood, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA, telephone (804) 367-8595, toll-free 1-800-552-3016 or SCATS 367-8595

DEPARTMENT OF TAXATION

December 11, 1989 - 10 a.m. – Public Hearing
NOTE: CHANGE IN HEARING LOCATION
State Capitol, Capitol Square, House Room 4, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **Virginia Tire Tax Regulations (VR 630-27-640. Definitions; VR 630-27-641. Imposition of the Tax; VR 360-27-642. Collection of the Tax, Exemptions, Deductions; VR 630-27-643. Disposition of Revenue; VR 630-27-644. Provision of Chapter 6 of Title 58.1 to apply Mutatis Matundis).** The regulations set forth the application of the Virginia Tire Tax to the retail sales of new tires.

Statutory Authority: § 58.1-203 of the Code of Virginia

Written comments may be submitted until December 11, 1989.

Contact: Janie E. Bowen, Director, Tax Policy, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010 or SCATS 367-8010

* * * * * * * * *

† **January 5, 1990 - 10 a.m.** – Public Hearing
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-1-1805.1. General Provisions: Padlocking Premises.**

STATEMENT

Substance: The authority to suspend the business operations of delinquent taxpayers by padlocking the doors of a business that is seriously delinquent in paying its taxes is enforceable only after the promulgation of regulations. The adoption of these regulations will allow the Department of Taxation to utilize this additional method of collecting delinquent taxes. The regulation sets forth the administrative procedures that must be followed by the Department of Taxation in utilizing this new method of collecting delinquent state taxes.

Issues: The major issue under consideration involves the balance between the "due process" considerations that taxpayers are entitled to and the need for the Department of Taxation to have an effective tool to collect delinquent state taxes.

Basis: This regulation is issued under the authority granted by §§ 58.1-203 and 58.1-1805 of the Code of Virginia.

Purpose: This regulation is being adopted to comply with the statutory provision found in 1989 Acts, Chapters 629 (H.B. 1596) and 642 (S.B. 732) requiring the Tax Commissioner to promulgate regulations prior to effecting distraint of a taxpayer's property by way of padlocking the doors of a business enterprise that is seriously delinquent in filing or paying state taxes.

Estimated impact: This regulation will affect only those taxpayers who are very seriously delinquent in paying or filing state taxes and who have failed to pay despite repeated efforts by the Department of Taxation to collect the delinquent taxes owed.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until January 5, 1990

Contact: Janie E. Bowen, Director, Tax Policy, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010

TREASURY BOARD

November 15, 1989 - 9 a.m. – Open Meeting
December 20, 1989 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia.

A monthly meeting.

Contact: Betty A. Ball, Department of Treasury, 101 N.

14th St., James Monroe Bldg., 3rd Floor, Richmond, VA 23219, telephone (804) 225-2142

VALLEY ALCOHOL SAFETY ACTION PROGRAM BOARD

† **November 13, 1989 - 8 a.m.** – Open Meeting
2 Holiday Court, Staunton, Virginia. ♿

A regular meeting of the local policy board which conducts business pertaining to the following: (i) Court Referrals; (ii) Financial Report; (iii) Director's Report; and (iv) Statistical Reports.

Contact: Mrs. Rhoda G. York, Executive Director, 2 Holiday Court, Staunton, VA 24401, telephone (703) 886-5616 or (703) 943-4405 (Waynesboro)

COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP)

November 28, 1989 - 1 p.m. – Open Meeting
November 29, 1989 - 9 a.m. – Open Meeting
Sheraton Fredericksburg, 2801 Plank Road, Fredericksburg, Virginia. ♿

The second of four quarterly business meetings for 1989-90.

Contact: Donald R. Henck, Ph.D., Executive Director, Old City Hall Bldg., 1001 E. Broad St., Suite 245, Box 28, Richmond, VA 23219, telephone (804) 786-5896/TDD ☎ or SCATS 786-5896

VIRGINIA VOLUNTARY FORMULARY BOARD

November 30, 1989 - 10:30 a.m. – Open Meeting
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ♿

A meeting to review (i) public hearing comments; (ii) correspondence; and (iii) other information submitted by pharmaceutical manufacturers for products being considered for inclusion in or deletion from the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-4326 or SCATS 786-3596

DEPARTMENT OF WASTE MANAGEMENT

November 20, 1989 – Written comments may be submitted until this date.

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: **VR 672-10-1. Virginia Hazardous Waste Management Regulations.** Amendment 10 updates the Virginia Hazardous Waste Management Regulations to retain the equivalency of the Virginia and federal programs.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Written comments may be submitted until November 20, 1989.

Contact: W. Gulevich, Director, Division of Technical Services, Department of Waste Management, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2975 or SCATS 225-2975

STATE WATER CONTROL BOARD

† **November 20, 1989 - 7 p.m.** – Public Hearing
Northampton Senior High School, Eastville, Virginia ♿

The Sate Water Control Board will hold a hearing to receive comments to determine whether four proposed new wells to withdraw 300,000 gallons per day of groundwater by Dicanio Residential Communities, Inc., for Quarterfields Water and Sewage Co., Inc., located in Northampton County will conflict with existing rights to use groundwater. Additionally, the hearing is being held to receive comments on the proposed issuance or denial of the groundwater withdrawal permit for Dicanio Residential Communities, Incorporated.

† **November 21, 1989 - 7 p.m.** – Public Hearing
William Campbell High School Auditorium, Rt. 917 off of Rt. 501, Naruna, Virginia. ♿

The State Water Control Board will hold a public hearing to receive comments on the proposed issuance or denial of the 401 certification 89-0868 for Ultra Cogen Systems, Incorporated, 12500 Fair Lakes Circle, Suite 260, Fairfax, Virginia 22033-3822 to withdraw 1.43 mgd from the Roanoke River with a return flow of 0.220 mgd, and the effect the withdrawal will have on water quality or beneficial uses of State waters.

† **November 27, 1989 - 7 p.m.** – Public Hearing
Abingdon High School Auditorium, 705 Thompson Drive, Abingdon, Virginia. ♿

The State Water Control Board will hold a public hearing to receive comments on the proposed issuance of a Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0081736 for J. C. Bailey Residence Sewage Treatment Plant, Rt. 8, Box 411, Abingdon, Virginia 24210. The purpose of the hearing is to receive comments on the proposed permit, the issuance or denial of the permit, and the effect of the

discharge on water quality or beneficial uses of State waters.

Contact: Lori A. Freeman, Hearings Reporter, Office of Policy Analysis, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 367-6815

December 11, 1989 - 9 a.m. – Open Meeting
December 12, 1989 - 9 a.m. – Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia.

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, P.O. Box 11143, 2111 N. Hamilton St., Richmond, VA 23230, telephone (804) 367-6829

† **December 14, 1989 - 3:30 p.m.** – Open Meeting
James City County Board of Supervisors Room, Building C, 101-C Mounts Bay Road, Williamsburg, Virginia

† **December 18, 1989 - 3:30 p.m.** – Open Meeting
Warrenton Junior High School Auditorium, 244 Waterloo Street, Warrenton, Virginia

† **January 4, 1990 - 3 p.m.** – Open Meeting
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

Public meeting to receive comments and suggestions which the agency will use in proposing specific changes in the Water Quality Standards that will be formally considered during the 1990 Triennial Review.

Contact: Elleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418

* * * * * * * *

December 14, 1989 - 7 p.m. – Public Hearing
James City County Board of Supervisors Room, 101 C Mounts Bay Road, Building C, Wiliamsburg, Virginia

December 18, 1989 - 7 p.m. – Public Hearing
Warrenton Junior High School Auditorium, 244 Waterloo Street, Warrenton, Virginia

January 4, 1990 - 7 p.m. – Public Hearing
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-13-03. Petroleum Underground Storage Tank Financial Requirements.** The proposed regulation requires that owners, operators, and vendors demonstrate sufficient financial responsibility to ensure that corrective action and third party liability responsibilities associated with petroleum UST releases are met.

Statutory Authority: §§ 62.1-44.34:10, 62.1-44.34:12 and 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., January 12, 1990.

Contact: Fred Cunningham, Office of Water Resources, Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0411

COUNCIL ON THE STATUS OF WOMEN

November 13, 1989 - 8 p.m. – Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia

Meetings of the standing committees of the council.

November 14, 1989 - 9 a.m. – Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia

A regular meeting of the council to conduct general business and to receive reports from the council standing committees.

Contact: Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9200 or SCATS 662-9200

LEGISLATIVE

ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

November 17, 1989 - 10 a.m. – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

A work session of the joint subcommittee. HJR 431

December 14, 1989 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

A public hearing to allow the committee to hear the public's views on the AIDS problem. HJR 431

January 11, 1990 - 2 p.m. – Open Meeting
Site to be determined

A tenative date for a working session.

Contact: Brenda Edwards, Research Associate, Division of

Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE COMMONWEALTH'S SYSTEM OF APPELLATE REVIEW OF CIVIL CASES

November 13, 1989 - 10 a.m. – Working Session
General Assembly Building, Sixth Floor Conference Room, Capitol Square, Richmond, Virginia

A working session relating to HJR 329.

Contact: Oscar Brinson, Staff Attorney or Mary K. Geisen, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

COURT APPOINTED SPECIAL ADVOCATE (CASA) PROGRAMS

† **November 8, 1989 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

The subcommittee is meeting to evaluate statewide court appointed special advocate (CASA) programs in the Commonwealth. HJR 261

Contact: John G. MacConnell, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

RETENTION SCHEDULE FOR COURT RECORDS

November 15, 1989 - 10 a.m. – Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia.

A working session. HJR 388

Contact: Oscar R. Brinson, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

VIRGINIA STATE CRIME COMMISSION

Drug Study Task Force (LWNF)

† **November 14, 1989 - 2 p.m.** – Open Meeting
General Assembly Building, Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia.

Purpose of the meeting will be for the Law Enforcement Subcommittee to examine drug-related efforts in law enforcement and the effectiveness of the state's anti-drug efforts as authorized by SJR 144.

Drug Task Force (Education)

† **November 15, 1989 - 9 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia.

Purpose of the meeting will be for the Education Subcommittee to examine drug awareness education efforts in the Commonwealth pursuant to SJR 144.

Drug Study Task Force (Corr)

† **November 15, 1989 - 1 p.m.** – Open Meeting
General Assembly Building, Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia.

Purpose of the meeting will be for the Corrections/Rehabilitation Subcommittee to examine drug-related treatment efforts and assess the effectiveness of consumption reduction programs pursuant to SJR 144.

Victims and Witnesses Subcommittee

† **November 14, 1989 - 5 p.m.** – Open Meeting
General Assembly Building, Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia.

Purpose of the meeting will be for the Victims Subcommittee to review matters concerning the continued study.

Contact: Robert E. Colvin, Executive Director, 910 Capitol St., Suite 915, Richmond, VA 23219, telephone (804) 225-4534

JOINT SUBCOMMITTEE STUDYING DNA TEST DATA EXCHANGE

November 14, 1989 - 10 a.m. – Open Meeting
State Capitol, Capitol Square, Senate Room 4, Richmond, Virginia.

A working session. SJR 127

Contact: Mary Devine, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591 or Amy Wachter, Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3838

JOINT SUBCOMMITTEE STUDYING TRAINING AND CERTIFICATION OF EMERGENCY MEDICAL SERVICES PERSONNEL

November 13, 1989 - 9 a.m. – Open Meeting
General Assembly Building, Senate Room B, Capitol Square, Richmond, Virginia

A regular meeting. SJR 209, 1989 (continued).

Contact: Amy Wachter, Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3838, or Norma Szakal, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE REGULATION OF ENGINEERS, ARCHITECTS, AND LAND SURVEYORS AND THE EXEMPTION FROM LICENSURE OF EMPLOYEES OF THE COMMONWEALTH AND ITS LOCALITIES

November 21, 1989 - 10 a.m. – Open Meeting
State Capitol, House Room 4, Capitol Square, Richmond, Virginia

Regular meetings. HJR 408

Contact: Angela P. Bowser, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE FREEDOM OF INFORMATION ACT

November 20, 1989 - 10 a.m. – Public Hearing
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia

A public hearing to receive comments relating to legislation proposed by the subcommittee and other matters pertaining to the Freedom of Information Act.

Contact: Angela Bowser, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING HEALTH CARE FOR ALL VIRGINIANS

November 14, 1989 - 10 a.m. – Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia.

A full committee meeting. SJR 214

Contact: John McE. Garrett, Deputy Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-4639 or Richard Hickman, Senate Finance Office, 10th Floor, General Assembly Bldg., Capitol Square, Richmond, VA 23219, telephone (804) 786-4400

LOCAL AND STATE GOVERNMENT INFRASTRUCTURE AND REVENUE RESOURCES

† **November 29, 1989 - 11 a.m.** – Public Hearing
Montgomery County Courthouse, Courtroom B (Third Floor), Christiansburg, Virginia

The commission is holding a public hearing to aid in their study of local and state government infrastructure and revenue resources. HJR 432

Contact: John Garka, Economist, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING REINSURANCE, INSURANCE ANTI-TRUST LAWS AND LIABILITY INSURANCE COVERAGE

† **November 20, 1989 - 1 p.m.** – Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia

Work session for joint subcommittee.

Contact: Jeff Finch, House of Delegates, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-2227; additional information may be obtained from C. William Cramme', III, Deputy Director, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591

CREATION, MEMBERSHIP AND STANDARDS OF CONDUCT OF A NONPARTISAN FAIR CAMPAIGN PRACTICES COMMISSION

December 4, 1989 - 2 p.m. – Open Meeting
General Assembly Building, Capitol Square, 6th Floor Conference Room, Richmond, Virginia.

A joint subcommittee meeting. HJR 416

Contact: Mary Spain, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

November 30, 1989 - 10 a.m. – Open Meeting
General Assembly Building, Capitol Square, Sixth Floor Conference Room, Richmond, Virginia.

Meetings to address matters relevant to the mission of the commission.

Contact: Jeffrey A. Finch, House of Delegates, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-2227

COMMISSION TO STUDY ALTERNATIVE METHODS OF FINANCING CERTAIN FACILITIES AT STATE-SUPPORTED COLLEGES AND UNIVERSITIES

November 20, 1989 - 2 p.m. – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

The third commission meeting will involve final discussions and a review.

December 14, 1989 - 2 p.m. – Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia.

The fourth meeting of the commission will be held in order to finalize its report.

Contact: Kathleen G. Harris, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

STRUCTURE AND MANAGEMENT OPTIONS FOR THE VIRGINIA INDUSTRIES FOR THE BLIND PROGRAM

November 14, 1989 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, Appropriations Committee West Conference Room, 9th Floor, Richmond, Virginia.

A work session. HJR 418

Contact: Gayle Nowell, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

TOWING AND RECOVERY INDUSTRY JOINT SUBCOMMITTEE

† **November 9, 1989 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room A, Capitol Square, Richmond, Virginia.

Open meeting. SJR 206.

Contact: Alan B. Wambold, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591 or Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869

CHRONOLOGICAL LIST

OPEN MEETINGS

November 6
† Air Pollution Control, Department of

November 7
† Hopewell Industrial Safety Council
Marine Resources Commission

November 8
Architects, Land Surveyors, Professional Engineers and Landscape Architects, Board for
- Board for Architects

† Children, Department for
- Teen Pregnancy Prevention Task Force

† Court Appointed Special Advocate (CASA) Programs

November 9
Child Day-Care Council
Children, Coordinating Committee for Interdepartmental Licensure and Certification of Residential Facilities for
Commerce, Board of
† Community Colleges, State Board for
Nursing, Board of
- Regulations Committee

† Prison and Jail Overcrowding, Commission on
Professional Soil Scientists, Board for
† Richmond Emergency Planning Committee
† Towing and Recovery Industry Joint Subcommittee

November 11
Conservation and Recreation, Department of
- Virginia Cave Board

November 13
Appellate Review of Civil Cases, Joint Subcommittee Studying Commonwealth's System of
Emergency Medical Services Personnel, Joint Subcommittee Studying Training and Certification of
† Optometry, Board of
† Valley Alcohol Safety Action Program Board
Women, Council on the Status of

November 14
† Cattle Industry Board, Virginia
† Children's Facilities Interdepartmental Council on Rate-Setting for
† Crime Commission, Virginia State
- Drug Study Task Force (LWNF)
- Victims and Witnesses Subcommittee

DNA Test Data Exchange, Joint Subcommittee Studying
Education, Board of
† Funeral Director and Embalmers, Board of
Health Care for All Virginians, Joint Subcommittee Studying

† Pharmacy, Board of
Structure and Management Options for the Virginia Industries for the Blind Program
Women, Council on the Status of

November 15
† Conservation and Recreation, Department of
- Rappahannock Scenic River Advisory Board
Corrections, Board of
Court Records, Retention Schedule for
† Crime Commission, Virginia State
- Drug Study Task Force (Education)
- Drug Study Task Force (Corr)
† Criminal Justice Services Board
Forestry, Board of
Game and Inland Fisheries, Department of
Indians, Council on
Labor and Industry, Department of
- Safety and Health Codes Board
† Library Board
† Mental Health, Mental Retardation and Substance Abuse Services Board, State
† Milk Commission, State
Pesticide Control Board
† Roanoke Valley Local Emergency Planning Committee
Treasury Board

November 16
Architects, Land Surveyors, Professional Engineers and Landscape Architects, Board for
- Board for Engineers
† Criminal Justice Services, Department of
- Virginia Juvenile Justice and Delinquency Prevention Advisory Committee
† Danville Local Emergency Planning Committee
Housing and Community Development, Board of
- Amusement Device Technical Advisory Committee
Medicine, Board of
Pesticide Control Board
† Virginia Racing Commission

November 17
Acquired Immunodeficiency Syndrome (AIDS)
† Commercial Driver Education Schools, Board for
† Conservation and Recreation, Department of
- Catoctin Creek Advisory Board
† Correctional Education, Department of
† Housing Development Authority, Virginia
Medicine, Board of
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- State Human Rights Committee

November 18
Medicine, Board of

November 19
Medicine, Board of

November 20
† Outdoors Foundation, Virginia
† Reinsurance, Insurance Anti-Trust Laws and Liability Insurance Coverage, Joint Subcommittee Studying
State-Supported Colleges and Universities, Commission to Study Alternative Methods of Financing Certain Facilities at

November 21
† Alexandria Alcohol Safety Action Program Policy Board
Education Assistance Authority, State
- Board of Directors
Engineers, Architects, and Land Surveyors and the Exemption from Licensure of Employees of the Commonwealth and Its Localities, Joint Subcommittee Studying the Regulations of
† Lottery Board, State

November 27
Nursing, Board of

November 28
† Health Services Cost Review Council, Virginia
Nursing, Board of
Peninsula Alcohol Safety Action Program Policy Board
Virginia Alcohol Safety Action Program, Commission on the

November 29
Nursing, Board of
† Local and State Infrastructure and Revenue Resources
Virginia Alcohol Safety Action Program, Commission on the

November 30
Aging, Department for the
- Long-Term Care Ombudsman Program Advisory Council
Architects, Land Surveyors, Professional Engineers and Landscape Architects, Board for
- Board for Land Surveyors
Charles City County Emergency Planning Committee
Funeral Directors and Embalmers, Board of
Population Growth and Development, Commission on
Voluntary Formulary Board, Virginia

December 1
† Children, Department for
- Advisory Board

December 4
† Education, State Board of
Nonpartisan Fair Campaign Practices Commission, Creation, Membership and Standards of Conduct of a

December 5
† Education, State Board of
† Hopewell Industrial Safety Council

December 6

Child Mental Health, Consortium on
Mental Health, Mental Retardation and Substance Abuse Services, Department of
- Interagency Coordinating Council, Virginia
Nursing Home Administrators, Board of
† Soil and Water Conservation Board, Virginia

December 7
Emergency Planning Committee of Chesterfield County, Local
Nursing Home Administrators, Board of
Real Estate Board

December 8
Children, Coordinating Committee for Interdepartmental Licensure and Certification of Residential Facilities for
† Medicine, Board of
- Ad Hoc Committee on Optometry
Real Estate Board

December 9
Medicine, Board of
- Credentials Committee

December 11
† Housing and Community Development, Department of
Water Control Board, State

December 12
Water Control Board, State

December 13
Branch Pilots, Board for
† Corrections, Board of
Health, Board of

December 14
Child Day-Care Council
Health, Board of
† Nursing, Board of
State-Supported Colleges and Universities, Commission to Study Alternative Methods of Financing Certain Facilities at
† Water Control Board, State

December 15
† Real Estate Board

December 18
† Water Control Board, State

December 20
Treasury Board

January 5, 1990
† Water Conrol Board, State

January 11
Acquired Immunodeficiency Syndrome (AIDS)
† Education, State Board of

January 12
† Education, State Board of

January 18
† Library Board

PUBLIC HEARINGS

November 6
Health, Department of

November 8
Mines, Minerals and Energy, Department of
- Division of Mineral Mining

November 9
Mines, Minerals and Energy, Department of
- Division of Mined Land Reclamation

November 13
Health, Department of
Rights of the Disabled, Department for

November 14
Corrections, Department of
Health, Department of

November 15
Health, Department of
Labor and Industry, Department of

November 16
Health, Department of

November 20
Freedom of Information Act, Joint Subcommittee Studying the
† Water Control Board, State

November 21
Health, Department of
Lottery Department, State
† Water Control Board, State

November 27
† Water Control Board, State

November 28
Health, Department of

November 29
Health, Department of
Pharmacy, Board of

November 30
† Health, Department of

December 4
Motor Vehicles, Department of

December 7
† Health, Department of

December 8
† Health, Department of
Medicine, Board of

December 11
Taxation, Department of

December 14
Acquired Immunodeficiency Syndrome (AIDS)
Water Control Board, State

December 18
Water Control Board, State

January 3, 1990
Employment Commission, Virginia

January 4
Water Control Board, State

January 5
† Taxation, Department of

January 8
† Health Planning Board, Virginia