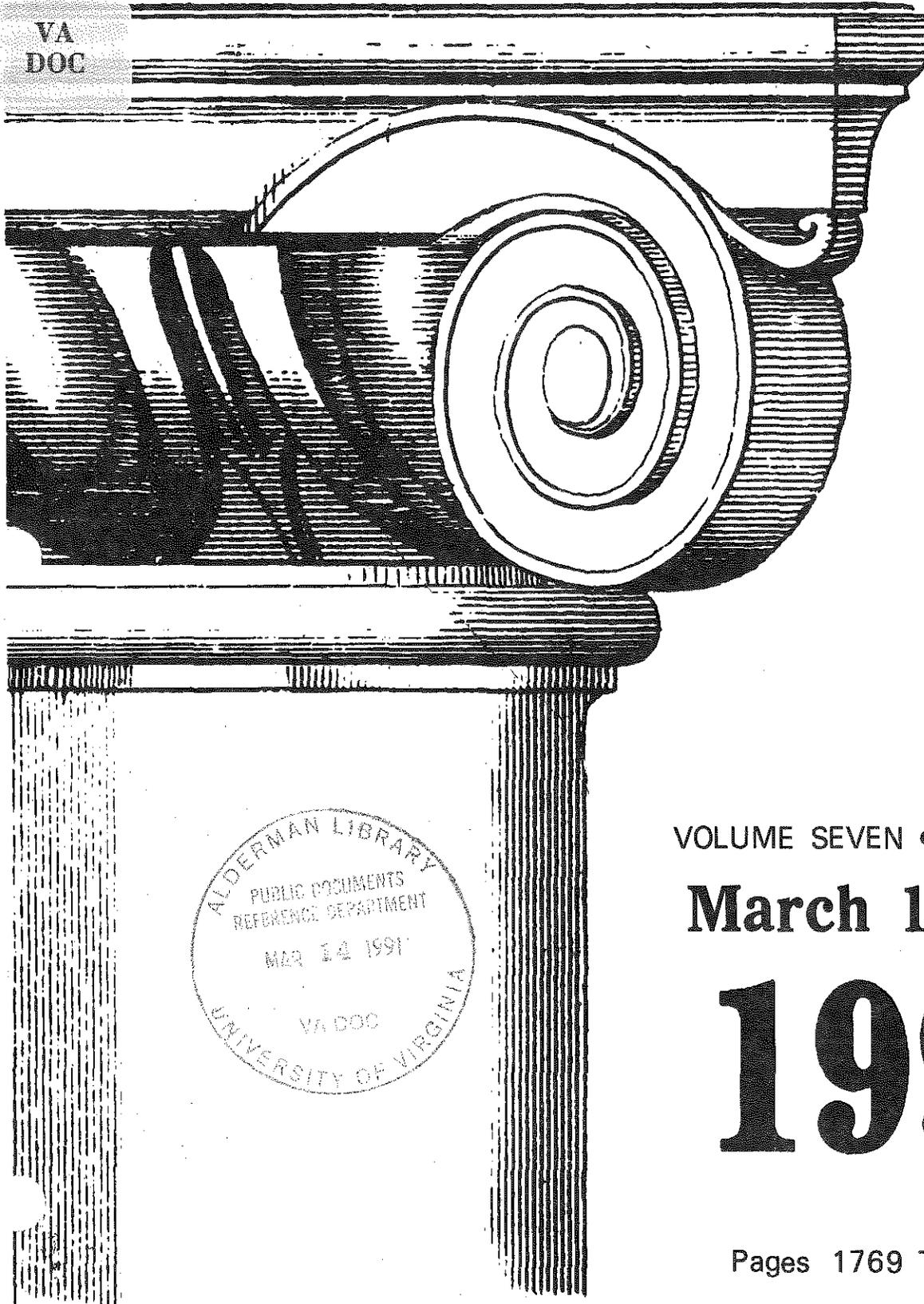


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**THE VIRGINIA REGISTER**

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## 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.

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## Symbol Key

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## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

## PART I. GENERAL.

**REGISTRAR'S NOTICE:** The following regulation is exempted from the Administrative Process Act under the provisions of § 9-6.14:4 B 4 of the Code of Virginia, which excludes agency action relating to grants of state or federal funds or property.

**Title of Regulation:** VR 394-01-105. Share-Expansion Grant/Loan Program.

**Statutory Authority:** § 36-141 et seq. of the Code of Virginia.

**Public Hearing Date:** N/A - Written comments may be submitted until April 11, 1991.

(See Calendar of Events section for additional information)

### Summary:

*Responding to critical housing problems facing the Commonwealth, as documented in the 1987 Annual Report of the Virginia Housing Study Commission, the Governor and the General Assembly established the Virginia Housing Partnership Fund. The purpose of the fund is to increase the availability of decent and affordable housing for low and moderate income Virginia residents through the provision of grants and low interest loans. One of the programs in the Fund, administered by the Department of Housing and Community Development is the State Homeless Housing Assistance Resources (SHARE) Expansion Grant/Loan Program. It provides Expansion Grant, Expansion Loan, and Energy Grant funds to eligible project sponsors for the creation or expansion of emergency shelters, transitional facilities, or single room occupancy (SRO) units. The Expansion Loan and Energy Grant funds may also be used to acquire or rehabilitate existing emergency shelters, transitional facilities or SRO's without expanding or creating additional beds. The program guidelines for the SHARE-Expansion Grant/Loan Program provide the basic technical and administrative framework for distributing program funds throughout the Commonwealth.*

*The amendment establishes a funding priority for applicants who are expanding or establishing emergency shelters, transitional housing, or single room occupancy facilities.*

VR 394-01-105. Share-Expansion Grant/Loan Program.

### § 1.1. Definitions.

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

"*Acquisition*" means the purchase of real property (building, structures, land).

"*Application*" is means the request, on behalf of the applicant to the State, for a loan or grant fund reservation under the SHARE-Expansion Loan and Grant Programs.

"*Appraised value*" is means the value of the building and land as determined by a certified appraiser for marketing purposes.

"*Assessed value*" is means the value of the building and land as determined by the real estate assessment office of the local government for tax purposes. The applicable assessed value shall be that which is in effect as of the application date.

"*DHCD*" means the Department of Housing and Community Development.

"*Emergency shelter*" means a building or facility operated on a nonprofit and nondiscriminatory basis, which provides free temporary accommodations and related human services for homeless persons, wherein the typical stay is less than 30 days.

"*Energy grant*" means a grant which may be awarded to finance certain energy-related improvements within the SHARE-Expansion Grant/Loan Program.

"*Energy-related improvements*" means physical improvements to structures which are being rehabilitated which contribute to fuel cost savings and overall less energy consumption, and which have been so designated by the department. They may include installation or replacement of storm doors and windows; caulking and weatherstripping; roof, floor and wall repair as associated with insulation improvements; and furnace repair.

"*Expansion*" means increasing the number of beds provided by the sponsor through rehabilitation, addition of new space to an existing building, through the acquisition of an existing building, or through construction. The addition or rehabilitation of nonresidential space which is

# Proposed Regulations

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essential to the operation of the facility is also permitted, but only in conjunction with an increase in beds.

“Facility” means either an emergency shelter, transitional shelter, or single room occupancy housing.

“Fund” means the Virginia Housing Partnership Fund.

“Grant” means a grant made under SHARE-Expansion Grant/Loan Program.

“Grant agreement” means the agreement between DHCD and the project sponsor pertaining to the terms and conditions provided within the SHARE-Expansion Grant/Loan Program.

“Grantee” means a grant recipient under the SHARE-Expansion Grant/Loan Program.

“Homeless” means persons or families who are without housing or who are in imminent danger of being without housing.

“Loan” means a loan made under SHARE-Expansion Grant/Loan Program.

“Loan agreement” means the agreement between DHCD and the project sponsor pertaining to the terms and conditions provided in the SHARE-Expansion Grant/Loan Program.

“Locality” means a city or county.

“Project sponsor” is means a nonprofit, incorporated organization, a governmental entity, or a for-profit (limited to SRO projects and only for loan and energy funds). Examples of project sponsors include, but are not limited to, cities, counties, towns, redevelopment and housing authorities, area agencies on aging, independent nonprofit housing organizations and others.

“Program” means the SHARE-Expansion Grant/Loan Program.

“Rehabilitation” means substantial physical improvements/repairs to a facility which will secure it structurally, correct building, health or fire safety code related defects, increase energy efficiency and assure safe and sanitary operation.

“State” means the Department of Housing and Community Development or such other entity as DHCD shall designate to act on its behalf.

“Single room occupancy housing” means permanent residential facilities for the homeless, consisting of a single room housing unit with either private or shared bath facilities with the optional provision of kitchen facilities, and in which rents may be charged to occupants.

“Transitional housing” means residential facilities for the

homeless designed to meet their longer-term housing and human services needs, wherein the typical stay is over 30 days and less than two years, and in which rents may be charged to occupants.

“VHDA” means Virginia Housing Development Authority.

## PART II. ELIGIBILITY.

### § 2.1. Eligible applicants.

To be eligible applicants must be:

1. Nonprofit organizations incorporated under the laws of the Commonwealth of Virginia;
2. Governmental entities, including redevelopment and housing authorities; or
3. For-profit entities (may only apply for Expansion Loan and Energy Grant funds for SRO projects).

### § 2.2. Eligibility requirements.

To be eligible applicants:

1. Must be providing for expansion of number of beds, ~~not just rehabilitation~~; in order to receive Expansion Grant Funds (nonexpansion projects may be eligible for loan and energy funds only);
2. Must match SHARE funds for non-Virginia Housing Partnership Funds on a one-for-one basis. DHCD reserves the right to reduce the match for SRO's in order to meet the goals and objectives of the program; and
3. Must operate on year-round basis.

### § 2.3. Eligible activities.

To be eligible activities must be related to:

1. Acquisition, new construction, rehabilitation, and furnishings.
2. Energy-related improvements are encouraged.

NOTE: Luxury improvements are prohibited.

### § 2.4. Operational requirements.

To be eligible applicants:

1. Must operate facility for the homeless.
2. Must practice nondiscrimination in all programs and services including, but not limited to the delivery of services, opportunities or benefits based on race, national origin, color, or religion;

3. Must not require participation in a religious, sectarian, or philosophical service, rite, meeting or ritual as a condition for receiving shelter or related services;

4. Must not require a fee or donation as a condition for receiving emergency shelter or related services (transitional and SRO housing are excluded); and

5. Must operate a facility that is in compliance with applicable state and local health, building and fire safety codes, or agree to make necessary improvements/repairs for such code compliance on such schedule as the department shall determine.

### PART III. DISTRIBUTION OF FUNDS.

#### § 3.1. Distribution of funds.

##### A. Funding priority.

There are no set asides although DHCD shall endeavor to fund at least one emergency shelter, one transitional facility, and one single room occupancy facility. *However, applicants who propose to expand or establish emergency shelter, transitional housing, or SRO facilities for the homeless will receive priority funding over applicants who do not propose to expand or establish these facilities.*

##### B. Competitive ranking.

All applications will be ranked competitively by the department within the areas of cost effectiveness, administrative capacity, leveraging, project design, unmet needs, site control and the provision of support services. There are no geographic set asides of funds; however, DHCD shall seek to achieve an equitable geographic distribution of funds.

The maximum amount available for each loan or grant application, or both, is as follows:

1. Loan or grant, or both, to shelter or transitional facility - \$125,000.
2. Loan or grant, or both, to SRO - \$15,000 per unit up to \$500,000.

### PART IV. LOAN AND GRANT TERMS AND CONDITIONS.

#### § 4.1. Loan and grant terms and conditions.

A. Loans will have a 0% interest rate for a term of up to 15 years. Energy-related improvements may be eligible for an energy grant. Loan recipients will sign a loan agreement, note, and deed of trust with the state.

B. Grants must be repaid to the state, if during the first five years after the closing of the grant(s), the facility is

used for some purpose other than that stated in the grant or loan agreement, unless approved by the state.

C. All loans and grants exceeding \$10,000 total will be secured by a lien on the property. This lien may be subordinate to any primary financing on the project. Title insurance will be required unless waived by DHCD for loans or grants, or both, over \$10,000.

D. Loan and grant applications will be analyzed by DHCD staff on two financial criteria:

1. The project sponsor's track record and potential for raising the funds needed for loan amortization will be analyzed.

2. The loan or grant amount plus any existing debt may not exceed 100% of the after-rehab property value. After-rehab property value may be estimated by the local tax assessor based on the current tax assessed value and the work write-up, cost estimates, and design plans for the rehabilitation, or it may be estimated by an appraiser using the current market appraisal and the related plans for rehabilitation.

E. The Virginia Housing Development Authority will disburse funds and collect payments for loans.

F. The project sponsor must own the property or have a lease for use of the building. If the project sponsor is leasing the property, that lease must be for a period of not less than 10 years, unless otherwise approved by the state.

G. A loan or grant may be assumed provided the new borrower continues to comply with the requirements of the loan or grant agreement, and approval is given by DHCD.

H. SHARE-Expansion Loans may not be prepaid unless authorized by the state.

### VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**NOTICE:** The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

**Title of Regulation:** VR 400-02-0011. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.

**Statutory Authority:** § 36-55.30:3 of the Code of Virginia.

**Public Hearing Date:** N/A - Written comments may be received until April 3, 1991.

(See Calendar of Events section for additional information)

**Summary:**

# Proposed Regulations

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*The proposed amendments to the rules and regulations for allocation of low-income housing tax credits ("federal credits") available under § 42 of the Internal Revenue Code will modify certain provisions of the point system by which applications for federal credits are ranked and selected for reservation and will make other technical and clarifying changes to the existing rules and regulations.*

VR 400-02-0011. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.

## § 1. Definitions.

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

*"Applicant"* means an applicant for federal credits or state credits or both under these rules and regulations and, upon and subsequent to an allocation of such credits, also means the owner of the development to whom the federal credits or state credits or both are allocated.

*"Estimated highest per bedroom credit amount for new construction units"* means, in subdivision ~~11~~ 7 of § 6, the highest amount of federal credits and 50% of state credits estimated by the executive director to be allocated per bedroom (*within the low-income housing units*) to any development in the state (or, if the executive director shall so determine, in each pool or subpool) composed solely of new construction units.

*"Estimated highest per bedroom credit amount for rehabilitation units"* means, in subdivision ~~11~~ 7 of § 6, the highest amount of federal credits and 50% of state credits estimated by the executive director to be allocated per bedroom (*within the low-income housing units*) to any development in the state (or, if the executive director shall so determine, in each pool or subpool) composed solely of rehabilitation units.

*"Estimated highest per unit credit amount for new construction units"* means, in subdivision ~~10~~ 6 of § 6, the highest amount of federal credits and 50% of state credits estimated by the executive director to be allocated per *low-income* unit to any development in the state (or if the executive director shall so determine, in each pool or subpool) composed solely of new construction units.

*"Estimated highest per unit credit amount for rehabilitation units"* means, in subdivision ~~10~~ 6 of § 6, the highest amount of federal credits and 50% of state credits estimated by the executive director to be allocated per *low-income* unit to any development in the state (or, if the executive director shall so determine, in each pool or subpool) composed solely of rehabilitation units.

*"Federal credits"* means the low-income housing tax credits as described in § 42 of the IRC.

*"IRC"* means the Internal Revenue Code of 1986, as amended, and the rules and regulations, notices and other official pronouncements promulgated thereunder.

*"Low-income housing units"* means those units which are defined as "low income units" under § 42 of the IRC.

*"Qualified low-income buildings" or "qualified low-income development"* means the buildings or development which meets the applicable requirements in § 42 of the IRC to qualify for an allocation of federal credits thereunder.

*"State code"* means Chapter 1.4 of Title 36 of the Code of Virginia.

*"State credits"* means the low-income housing tax credits as described in the state code.

*"Virginia taxpayer"* means any individual, estate, trust or corporation which, in the determination of the authority, is subject to the payment of Virginia income taxes and will be able to claim in full against such taxes the amount of state credits reserved or allocated to such individual, estate, trust or corporation under these rules and regulations.

## § 2. Purpose and applicability.

The following rules and regulations will govern the allocation by the authority of federal credits pursuant to § 42 of the IRC and state credits pursuant to the state code.

Notwithstanding anything to the contrary herein, acting at the request or with the consent of the applicant for federal credits or state credits or both, the executive director is authorized to waive or modify any provision herein where deemed appropriate by him for good cause, to the extent not inconsistent with the IRC and the state code.

The rules and regulations set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing and administration of the federal credits and state credits. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

Any determination made by the authority pursuant to these rules and regulations as to the financial feasibility of any development or its viability as a qualified low-income development shall not be construed to be a representation or warranty by the authority as to such feasibility or viability.

Notwithstanding anything to the contrary herein, all procedures and requirements in the IRC and the state code must be complied with and satisfied.

## § 3. General description.

The IRC provides for federal credits to the owners of residential rental projects comprised of qualified low-income buildings in which low-income housing units are provided, all as described therein. The aggregate amount of such credits (other than federal credits for developments financed with certain tax-exempt bonds as provided in the IRC) allocated in any calendar year within the Commonwealth may not exceed the Commonwealth's annual state housing credit ceiling for such year under the IRC. An amount equal to 10% of such ceiling is set-aside for developments in which certain qualified nonprofit organizations hold an ownership interest and materially participate in the development and operation thereof. Federal credit allocations ~~(other than credits for developments financed with certain tax-exempt bonds as provided in the IRC)~~ allocation amounts are counted against the Commonwealth's annual state housing credit ceiling for federal credits for the calendar year in which the federal credits are allocated. The IRC provides for the allocation of the Commonwealth's state housing credit ceiling for federal credits to the housing credit agency of the Commonwealth. The authority has been designated by executive order of the Governor as the housing credit agency under the IRC and, in such capacity, shall allocate for each calendar year federal credits to qualified low-income buildings or developments in accordance herewith.

Federal credits may be allocated to each qualified low-income building in a development separately or to the development as a whole in accordance with the the IRC .

Federal credits may be allocated to such buildings or development either (i) during the calendar year in which such building or development is placed in service or (ii) if the building or development meets the requirements of § 42 (h)(1)(E) of the IRC, during one of the two years preceding the calendar year in which such building or development is expected to be placed in service. Prior to such allocation, the authority shall receive and review applications for reservations of federal credits as described hereinbelow and shall make such reservations of federal credits to qualified low-income buildings eligible applications in accordance herewith and , subject to satisfaction of certain terms and conditions as described herein. Upon compliance with such terms and conditions and, as applicable, either (i) the placement in service of the qualified low-income buildings or development or (ii) the satisfaction of the requirements of § 42 (h)(1)(E) of the IRC with respect to such buildings or the development, the federal credits shall be allocated to such buildings or the development as a whole in the calendar year for which such federal credits were reserved by the authority.

Except as otherwise provided herein or as may otherwise be required by the IRC, these rules and regulations shall not apply to federal credits for with respect to any development or building to be financed by certain tax-exempt bonds in an amount so as not to

require under the IRC an allocation of federal credits hereunder.

The authority is authorized by the state code to establish the amount, if any, of state credits to be allocated to any buildings or development qualified for and claiming federal credits. The amount of state credits is calculated as a percentage of federal credits. Such percentage is established by the authority as provided herein. The state code provides for a maximum allocation of \$3,500,000 state credits in any calendar year. The state credits will be available for buildings or developments for which federal credits shall be allocated in 1990 and subsequent years or, in the case of any development or building to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal tax credits hereunder, for which such bonds shall be issued in 1990 and subsequent years. In the event that legislation is adopted by the General Assembly to defer the date set forth in §§ 36-55.63 A, 58.1-336 A or 58.1-435 A of the state code, then the year 1990 in the preceding sentence shall likewise be deferred and the provisions of these rules and regulations relating to state credits shall not become effective until the date set forth in such legislation.

The authority shall charge to each applicant fees in such amount as the executive director shall determine to be necessary to cover the administrative costs to the authority, but not to exceed the maximum amount permitted under the IRC. Such fees shall be payable at such time or times as the executive director shall require.

## § 4. Adoption of allocation plan; solicitations of applications.

The IRC requires that the authority adopt a qualified allocation plan which shall set forth the selection criteria to be used to determine housing priorities of the authority which are appropriate to local conditions and which shall give certain priority to and preference among developments in accordance with the IRC. The executive director from time to time may cause housing needs studies to be performed in order to develop the qualified allocation plan and, based upon any such housing needs study and any other available information and data, may direct and supervise the preparation of and approve the qualified allocation plan and any revisions and amendments thereof in accordance with the IRC. The IRC requires that the qualified allocation plan be subject to public approval in accordance with rules similar to those in § 147(f)(2) of the IRC. The executive director may include all or any portion of these rules and regulations in the qualified allocation plan.

The executive director may from time to time take such action he may deem necessary or proper in order to solicit applications for federal credits and state credits. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive

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director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications and the selection thereof as he shall consider necessary or appropriate.

## § 5. Application.

Application for a reservation of federal credits or state credits or both shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe or approve, together with such documents and additional information as may be requested by the authority in order to comply with the IRC and , the state code *and these rules and regulations* and to make the reservation and allocation of the federal credits and state credits in accordance with these rules and regulations. The application shall include a breakdown of sources and uses of funds sufficiently detailed to enable the authority to ascertain where and what costs will be incurred and what will comprise the total financing package, including the various subsidies and the anticipated syndication or placement proceeds that will be raised. The following cost information must be included in the application: site acquisition costs, site preparation costs, construction costs, construction contingency, general contractor's overhead and profit, architect and engineer's fees, permit and survey fees, insurance premiums, real estate taxes during construction, title and recording fees, construction period interest, financing fees, organizational costs, rent-up and marketing costs, accounting and auditing costs, working capital and operating deficit reserves, and syndication and legal fees , *development fees* and other costs *and fees* .

Each application shall include evidence of (i) sole fee simple ownership of the site of the proposed development by the applicant, ~~by one or more persons having ownership interests in the applicants or by one or more entities within the exclusive control of the applicant or the above described persons;~~ (ii) lease of such site by the applicant or by the above described persons or entities for a term exceeding the compliance period (as defined in the IRC) or for such longer period as the applicant represents in the application that the development will be held for occupancy by low-income persons or families or (iii) right to acquire or lease such site pursuant to a valid and binding *written* option or contract between the applicant ~~or the above described persons or entities~~ and the fee simple owner of such site, provided that such option or contract shall have no conditions within the discretion or control of such owner of such site. No application shall be considered for a reservation or allocation of federal credits or state credits unless such evidence is submitted with the application and the authority determines that the applicant ~~or the above described persons or entities own, lease or have owns, leases or has~~ the right to acquire or lease the site of the proposed development as described in the preceding sentence.

The application shall include pro forma financial

statements setting forth the anticipated cash flows during the credit period as defined in the IRC. The application shall include a certification by the applicant as to the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to each building or development. The executive director may also require the submission of a legal opinion or other assurances satisfactory to the executive director as to , *among other things*, compliance of the proposed development with the IRC and a certification, together with an opinion of an independent certified public accountant or other assurances satisfactory to the executive director, setting forth the calculation of the amount of federal credits requested by the application and certifying , *among other things*, that under the existing facts and circumstances the applicant will be eligible for the amount of federal credits requested.

The executive director may establish criteria and assumptions to be used by the applicant in the calculation of amounts in the application; and any such criteria and assumptions shall be indicated on the application form or instructions.

The executive director may prescribe such deadlines for submission of applications for reservation and allocation of federal credits and state credits for any calendar year as he shall deem necessary or desirable to allow sufficient processing time for the authority to make such reservations and allocations.

After receipt of the applications, the authority shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located and shall provide such individuals a reasonable opportunity to comment on the developments.

The development for which an application is submitted may be, but shall not be required to be, financed by the authority. If any such development is to be financed by the authority, the application for such financing shall be submitted to and received by the authority in accordance with its applicable rules and regulations.

The authority may consider and approve, in accordance herewith, both the reservation and the allocation of federal credits and state credits to buildings or developments which the authority may own or may intend to acquire, construct and/or rehabilitate.

## § 6. Review and selection of applications; reservation of federal credits.

The executive director may divide the amount of federal credits into separate pools and may further subdivide those pools into subpools. The division of such pools and subpools may be based upon one or more of the following factors: geographical areas of the state; types or characteristics of housing, construction, financing, owners, or occupants; or any other factors deemed appropriate by him to best meet the housing needs of the Commonwealth.

An amount, as determined by the executive director, not less than 10% of the Commonwealth's annual state housing credit ceiling for federal credits, shall be available for reservation and allocation to buildings or developments with respect to which the following requirements are met:

1. With respect to all reservations and allocations of federal credits, a "qualified nonprofit organization" (as described in § 42(h)(5)(C) of the IRC) is to materially participate (within the meaning of § 469(h) of the IRC) in the development and operation of the development throughout the "compliance period" (as defined in § 42 (i)(1) of the IRC); and

2. With respect to only these reservations of federal credits approved or ratified by the board on or after December 18, 1990, and with respect to only those allocations made pursuant to such reservations, (i) the "qualified nonprofit organization" described in the preceding subdivision 1 is to own an interest in the development (directly or through a partnership) as required by the IRC; (ii) such qualified nonprofit organization is to, prior to the allocation of federal credits to the buildings or development, own an interest in the development which shall constitute not less than 10% of all of the general partnership interests of the ownership entity thereof (*such that the qualified nonprofit organizations have at least a 10% interest in both the income and profit allocated to all of the general partners and in all items of cashflow distributed to the general partners*) and which will result in such qualified nonprofit organization receiving not less than 10% of the development all fees paid or to be paid to all of the general partners (*and any other entities determined by the authority to be related to or affiliated with one or more of such general partners*) in connection with the development; (iii) the executive director of the authority shall have determined that such qualified nonprofit organization is not affiliated with or controlled by a for-profit organization; and (iv) the executive director of the authority shall have determined that the qualified nonprofit organization was not or will not be formed by one or more individuals or for-profit entities for the principal purpose of being included in any nonprofit pools or subpools (as defined below) established by the executive director. In making the determination required by this subdivision 2 (iv), the executive director may apply such factors as he deems relevant, including, without limitation, the past experience and anticipated future activities of the qualified nonprofit organization, the sources and manner of funding of the qualified nonprofit organization, the date of formation and expected life of the qualified nonprofit organization, the number of staff members and volunteers of the qualified nonprofit organization, the nature and extent of the qualified nonprofit organization's proposed involvement in the construction or rehabilitation and the operation of the proposed development, and the relationship of the staff, directors or other principals involved in the

formation or operation of the qualified nonprofit organization with any persons or entities to be involved in the proposed development on a for-profit basis. The executive director may include in the application of the foregoing factors any other nonprofit organizations which, in his determination, are related (by shared directors, staff or otherwise) to the qualified nonprofit organization for which such determination is to be made.

*For purposes of the foregoing requirements, a qualified nonprofit organization shall be treated as satisfying such requirements if any qualified corporation (as defined in § 42(h)(5)(D)(ii) of the IRC) in which such organization holds stock satisfies such requirements.*

The applications shall include such representations and warranties and such information as the executive director may require in order to determine that the foregoing requirements have been satisfied. In no event shall more than 90% of the Commonwealth's annual state housing credit ceiling for federal credits be available for developments other than those satisfying the preceding requirements. The executive director may establish such pools or subpools ("nonprofit pools or subpools") of federal credits as he may deem appropriate to satisfy the foregoing requirement. If any such nonprofit pools or subpools are so established, the executive director may rank the applications therein and reserve federal credits (and, if applicable, state credits) to such applications before ranking applications and reserving federal credits (and, if applicable, state credits) in other pools and subpools, and any such applications in such nonprofit pools or subpools not receiving any such reservation of federal credits (and, if applicable, state credits) or receiving such reservations in amounts less than the full amount permissible hereunder (*because there are not enough federal credits then available in such nonprofit pools or subpools to make such reservations*) shall be assigned to such other pool or subpool as shall be appropriate hereunder; provided, however, that if additional federal credits are later made available by federal legislation (*pursuant to the IRC or as a result of either a termination or reduction of a reservation of federal credits made from any nonprofit pools or subpools or a rescission in whole or in part of an allocation of federal credits made from such nonprofit pools or subpools or otherwise*) for reservation and allocation by the authority during the same calendar year as that in which applications in the nonprofit pools or subpools have been so assigned to other pools or subpools as described above, the executive director may, in such situations, designate all or any portion of such additional federal credits for the nonprofit pools or subpools (or for any other pools or subpools as he shall determine) and may, if additional federal credits have been so designated for the nonprofit pools or subpools, reassign such applications to such nonprofit pools or subpools, rank the applications therein and reserve federal credits to such applications in accordance with the IRC and these rules and regulations. In the event that *during any round (as authorized*

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hereinbelow) of application review and ranking the amount of federal credits reserved within such nonprofit pools or subpools is less than the total amount of federal credits made available therein, the executive director may either (i) leave such unreserved federal credits in such nonprofit pools or subpools for reservation and allocation in any subsequent round or rounds or (ii) redistribute, to the extent permissible under the IRC, such unreserved federal credits to such other pools or subpools as the executive director shall designate and in which there are or remain applications for federal credits which have not then received reservations therefor in the full amount permissible hereunder (which applications shall hereinafter be referred to as "excess applications") or (iii) carry over such unreserved federal credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Any redistribution made pursuant to subdivision (ii) above shall be made pro rata based on the amount originally distributed to each such pool or subpool with excess applications divided by the total amount originally distributed to all such pools or subpools with excess applications such amount of unreserved federal credits may, to the extent permitted by the IRC, be redesignated from time to time by the executive director to such other pools or subpools and in such amounts as he shall determine. Notwithstanding anything to the contrary herein, no allocation of credits shall be made from any nonprofit pools or subpools to any application with respect to which the qualified nonprofit organization has not yet been legally formed in accordance with the requirements of the IRC. In addition, no application for credits from any nonprofit pools or subpools may receive a reservation or allocation of credits in any amount greater than \$500,000. For the purposes of implementing this limitation, the executive director may determine that more than one application for more than one development which he deems to be a single development shall be considered as a single application.

The authority staff shall review each application, and, based on the application and other information available to the authority, shall assign points to each application as follows:

1. Either (i) sole fee simple ownership of the site of the proposed development by the applicant, by one or more persons having ownership interests in the applicant, or by one or more entities within the exclusive control of the applicant or the above described persons or (ii) lease of such site by the applicant or by the above described persons or entities for a term exceeding the compliance period (as defined in the IRC) or for such longer period as the applicant represents in the application that the development will be held for occupancy by low-income persons and families (10 points);

2. 1. Approval by local authorities of the plan of development for the proposed development or a letter from such authorities stating written evidence

satisfactory to the authority that such approval is not required (15 points), proper zoning for such site or a letter from the applicable local authorities stating written evidence satisfactory to the authority that no zoning requirements are applicable (15 points), availability of all requisite public utilities for such site (15 points), completion of plans and specifications or, in the case of rehabilitation for which plans and specifications will not be used, work write-up for such rehabilitation (20 points multiplied by the percentage of completion of such plans and specifications or such work write-up), and building permit (10 points);

3. Issuance of a loan commitment or commitments to provide the financing for the proposed development without any conditions within the discretion or control of the lender (in the case of an unconditional commitment or commitments to provide permanent financing for a term of 15 years or more, 50 points or, in the case of any other unconditional commitment or commitments, 25 points) or any other written evidence of the intent of the lender or lenders to provide such financing (10 points);

4. Issuance of a commitment or commitments to provide equity funding for the proposed development from a financially sound syndicator or investor (or other source of such funding) without any conditions within the discretion or control of the syndicator or investor (25 points) or any other written evidence of the intent of such syndicator or investor to provide such equity funding (10 points);

2. Firm financing commitment(s) or firm equity commitment(s), or both, which provide funds for the proposed development in an aggregate amount equal to 100% of the total development cost of the development as represented in the application (50 points). For the purpose of this subdivision 2, a firm financing commitment means a written commitment issued by a financial institution to provide permanent financing for a term of 15 years or more for the proposed development without any conditions within the sole discretion or control of the lender. A firm equity commitment means a written commitment issued by a financially sound third party syndicator or third party investor without any conditions within the sole discretion or control of such syndicator or investor. Such third party syndicator or investor shall neither be directly or indirectly related to nor controlled by the applicant. Notwithstanding the foregoing, in the case of a development comprised of 12 or fewer units only, all or a portion of the aforementioned aggregate amount or funds to be provided for the proposed development may be made available by the applicant or another party if the authority receives satisfactory evidence of the availability of those funds.

5. 3. The quality of the proposed development's amenities, building materials and energy efficiency

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(the development shall be ranked by the executive director on a scale from 0 to 5 for each of the first two categories and at either 0 or 5 for the last category and the application shall be assigned points equal to the sum of the products of each such ranking multiplied by 3);

6. 4. Evidence that the members of the development team for the proposed development have the demonstrated experience, qualifications and ability to perform their respective functions (the development team shall be ranked by the executive director on a scale from 0 to 10, and the application shall be assigned points equal to ~~5~~ 3 multiplied by the number of such ranking);

7. 5. Increase in the housing stock attributable to new construction or adaptive reuse of units or to the rehabilitation of units determined by the applicable local governmental unit to be uninhabitable ( ~~75~~ 20 points multiplied by the percentage of such units in the proposed development);

8. 6. The percentage by which the total of the amount of federal credits and 50% of the amount of state credits per low-income housing unit (the "per unit credit amount") of the proposed development is less than the weighted average of the estimated highest per unit credit amount for new construction units and the estimated highest per unit credit amount for rehabilitation units based upon the number of new construction units and rehabilitations units in the proposed development (if the per unit credit amount of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per unit credit amount of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and the proposed development receives one point for each percentage point);

9. 7. The percentage by which the total of the amount of federal credits and 50% of the amount of state credits per bedroom in such low-income housing units (the "per bedroom credit amount") of the proposed development is less than the weighted average of the estimated highest per bedroom credit amount for new construction units and the estimated highest per bedroom credit amount for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development (if the per bedroom credit amount of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per bedroom credit amount of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and the proposed development receives one point for each percentage point);

~~10.~~ 8. Letter addressed to the authority and signed by the chief executive officer of the locality in which the proposed development is to be located stating, without qualification or limitation, either or both of the following:

"The (name of locality) supports the allocation of federal housing tax credits available under IRC Section 42 requested by (name of applicant) for (name of development)." (10 points)

"The construction or rehabilitation of (name of development) and the allocation of federal housing tax credits available under IRC Section 42 for that development will help meet the housing needs and priorities of (name of locality). " (10 points)  
Accordingly, (name of locality) supports the allocation of federal housing tax credits requested by (name of applicant) for that development." (20 points)

~~11.~~ 9. Participation in the ownership of the proposed development (either directly or through a wholly-owned subsidiary) by any organization which has its principal place of business in Virginia and which is exempt from federal taxation (10 points) or participation other than ownership in the development, construction or rehabilitation, operation or management of the proposed development by any such organization exempt from federal taxation (5 points);

~~12.~~ 10. Commitment by the applicant to give first leasing preference to individuals and families on public housing waiting lists maintained by the local housing authority operating in the locality in which the proposed development is to be located (5 points); and

~~13.~~ 11. Commitment by the applicant to lease low-income housing units in the proposed development only to one or more of the following: persons 62 years or older; homeless persons or families; or physically or mentally disabled persons (10 points).

With respect to items ~~8~~ and ~~9~~ 6 and 7 above only, the term "new construction units" shall be deemed to include adaptive reuse units and units determined by the applicable local governmental unit to be uninhabitable which are intended to be rehabilitated. Also, for the purpose of calculating the points to be assigned pursuant to such items ~~8~~ and ~~9~~ 6 and 7 above, all credit amounts shall be those requested in the applicable application, and the per unit credit amount and per bedroom credit amount for any building located in a qualified census tract or difficult development area (such tract or area being as defined in the IRC) shall be determined based upon 100% of the eligible basis of such building, in the case of new construction, or 100% of the rehabilitation expenditures, in the case of rehabilitation of an existing building, notwithstanding the use by the applicant of 130% of such eligible basis or rehabilitation expenditures in determining

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the amount of federal credits as provided in the IRC.

After points have been assigned to each application in the manner described above, the executive director shall compute the total number of points assigned to each such application. Notwithstanding any other provisions herein, any application which is assigned a total number of points less than a threshold amount of ~~150~~ 220 points shall be rejected from further consideration hereunder and shall not be eligible for any reservation or allocation of federal tax credits.

Each application to which the total number of points assigned is equal to or more than the above-described threshold amount of points shall be assigned bonus points as follows:

1. The percentage determined by dividing (i) the amount of investment proceeds (net of the cost of intermediaries and amounts paid for historic tax credits) expected by the authority to be generated with respect to the development and to be used for the cost of land and for costs determined by the authority to be reasonable and to be includable in the eligible basis of the proposed development by (ii) the total amount of federal credits for the proposed development during the credit period (~~200~~ points multiplied by the percentage as so determined);

2. 1. Commitment by the applicant to use *impose* income limits *throughout the extended use period (as defined in the IRC)* below those required by the IRC in order for the development to be a qualified low-income development (the product of (i) ~~100~~ 200 points multiplied by the percentage of low-income housing units subject to such commitment and (ii) a fraction the numerator of which is the difference between 60% and the percentage of area median gross income to be used as the income limits for such units and the denominator of which is 60%; and

3. 2. Commitment by the applicant to maintain the development as a qualified low-income housing development beyond the 15-year compliance period as defined in the IRC; such commitment beyond the end of the 15-year compliance period and prior to the end of the 30-year extended use period (as defined in the IRC) being deemed to represent a waiver of the applicant's right under the IRC to cause a termination of the extended use period in the event the authority is unable to present during the period specified in the IRC a qualified contract (as defined in the IRC) for the acquisition of the ~~low-income portion of the building by any person who will continue to operate such portion~~ *the low-income portion thereof* as a qualified low-income building (~~5~~ 2 points for each full year in such commitment beyond such compliance period - maximum ~~100~~ 30 points).

In the event of a tie in the number of points assigned to two or more ~~applicants~~ *applications* within the same pool

or subpool, or, if none, within the state, *and if the amount of federal credits available for reservation to such applications is determined by the executive director to be insufficient for the financial feasibility of both or, as applicable, all of the developments described herein*, the authority shall select ~~one or more of them by lot, if necessary,~~ in order to fully utilize the amount of credits available for reservation within such pool or subpool or, if none, within the Commonwealth *select one or more of the applications, by lot, to receive a reservation of federal credits in the lesser of the full amount determined by the executive director to be permissible hereunder or the amount of federal credits then available in such pool or subpool.*

The executive director may exclude and disregard any application which he determines is not submitted in good faith or which he determines would not be financially feasible.

Upon assignment of points to all of the applications, the executive director shall rank the applications based on the number of points so assigned. If any pools or subpools shall have been established, each ~~applicant~~ *application* shall be assigned to a pool or subpool and shall be ranked within such pool or subpool. Those applications awarded ~~assigned~~ more points shall be ranked higher than those applications awarded ~~assigned~~ fewer points.

For each application which may receive a reservation of federal credits, the executive director shall determine the amount, as of the date of ~~application~~ *the deadline for submission of applications for reservation of federal credits*, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. In making this determination, the executive director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, and the total financing planned for the development as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development (~~which proceeds or receipts shall in no event be less than the amount used above in the calculation of bonus points for the ranking of the proposed development~~) and *, and the percentage of the federal credit dollar amount used for development costs other than the costs of intermediaries.* He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, *if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines, in his sole discretion, to be reasonable.* (If the applicant requests any state credits, the amount of state credits to be reserved to the applicant shall be determined pursuant to § 7 prior to the foregoing determination, and any funds to be derived from such state credits shall be included in the above described sources and uses of funds.) The executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The

executive director may establish such criteria and assumptions as he shall deem reasonable for the purpose of making such determination, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (*based upon such percentage of the federal credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development*), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of variable rate financing applications without firm financing commitments (as defined hereinabove) at fixed interest rates, debt service on the proposed mortgage loan.

Under the IRC, the foregoing determination shall also be required for any buildings or development to be financed by certain tax-exempt bonds of the authority in an amount so as not to require under the IRC an allocation of federal credits hereunder. For the purpose of such determination, the owner of the proposed buildings or development shall submit to the authority, as and when required by the executive director, such of the above described information and documents as the executive director may require.

The At such time or times during each calendar year as the executive director shall designate, the executive director shall reserve federal credits to applications in descending order of ranking within each pool or subpool, if applicable, until either substantially all federal credits therein are reserved or all applications therein have received reservations. (*For the purpose of the preceding sentence, if there is not more than a de minimis amount, as determined by the executive director, of federal credits remaining in a pool or subpool after reservations have been made, "substantially all" of the federal credits in such pool shall be deemed to have been reserved.*) The executive director may rank the applications within pools or subpools at different times for different pools or subpools and may reserve federal credits, based on such rankings, one or more times with respect to each pool or subpool. The executive director may also establish more than one round of review and ranking of applications and reservations of federal credits based on such rankings, and he shall designate the amount of federal credits to be made available for reservation within each pool or subpool during each such round. The amount reserved to each such application shall be equal to the lesser of (i) the amount requested in the application or (ii) an amount determined by the executive director, as of the date of application, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC; provided, however, that in no event shall the amount of federal credits so reserved exceed either the maximum amount permissible under the IRC or the amount of federal credits available in the pool or subpool from which such federal credits are to be reserved.

If the amount of federal credits available in any pool is determined by the executive director to be insufficient for the financial feasibility of the proposed development to which such available federal credits are to be reserved, the executive director may permit the applicant to modify such proposed development and his application so as to achieve financial feasibility based upon the amount of such available federal credits. Any such modifications shall be subject to the approval of the executive director; provided, however, that in no event shall such modifications result in a material reduction in the number of points assigned to the application pursuant to § 6 hereof.

Any amounts in any pools or subpools not reserved to applications shall be reallocated among the other pools or subpools which are designated by the executive director and in which applications shall not have received reservations in the full amount permissible under these rules and regulations. Such reallocation In the event that during any round of application review and ranking the amount of federal credits reserved within any pools or subpools is less than the total amount of federal credits made available therein during such round, the executive director may either (i) leave such unreserved federal credits in such pools or subpools for reservation and allocation in any subsequent round or rounds or (ii) redistribute such unreserved federal credits to such other pools or subpools as the executive director may designate and in which there remains excess applications or (iii) carry over such unreserved federal credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Any redistribution made pursuant to subdivision (ii) above shall be made pro rata based on the amount originally allocated distributed to all each of such pools or subpools so designated by the executive director with excess applications divided by the total amount originally allocated distributed to all such designated pools or subpools with excess applications. Such reallocations shall redistributions may continue to be made until either all of the federal credits are reserved or all applications have received reservations.

Notwithstanding anything herein to the contrary, in the event that the executive director determines that the reservation of federal credits to two or more applications for developments to be located within close proximity to each other would create an oversupply of low income housing units in such area which would make the developments financially infeasible, the executive director may, based upon to rankings of such applications, exclude one or more of such applications from receiving a reservation of federal credits as he deems necessary or desirable to reduce such oversupply of units and contribute to the financial feasibility of the other such development or developments described in the other application or applications.

The Within a reasonable time after federal credits are reserved to any applicants' applications, the executive

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director shall notify each applicant for such reservations of federal credits either of the amount of federal credits reserved to such applicant's application (by issuing to such applicant a written binding commitment to allocate such reserved federal credits subject to such terms and conditions as may be imposed by the executive director therein, by the IRC and by these rules and regulations) or, as applicable, that the applicant's application has been rejected or excluded or has otherwise not been reserved federal credits in accordance herewith.

The board shall review and consider the analysis and recommendation of the executive director for the reservation of federal credits (and, if applicable, state credits), and, if it concurs with such recommendation, it shall by resolution ratify the reservation by the executive director of the federal credits (and, if applicable, state credits) to the applicant, subject to such terms and conditions as it shall deem necessary or appropriate to assure compliance with the aforementioned binding commitment issued or to be issued to the applicant, the IRC (and, in the case of state credits, the state code) and these rules and regulations. If the board determines not to ratify a reservation of federal credits (and, if applicable, state credits) or to establish any such terms and conditions, the executive director shall so notify the applicant.

Subsequent to such ratification of the reservation of federal credits, the executive director may, in his discretion and without ratification or approval by the board, increase the amount of such reservation by an amount not to exceed 10% of the initial reservation amount.

The executive director may require the applicant to make a good faith deposit or to execute such contractual agreements providing for monetary or other remedies as it may require, or both, to assure that the applicant will comply with all requirements under the IRC (and, in the case of state credits, the state code) and, these rules and regulations for allocation of the federal credits (and, if applicable, state credits) and the binding commitment (including, without limitation, any requirement to conform to all of the representations, commitments and information contained in the application for which points were assigned pursuant to § 6 hereof). Upon allocation of the federal credits (and, if applicable, state credits), satisfaction of all such aforementioned requirements (including any post-allocation requirements), such deposit (or a pro rata portion thereof based upon the portion of federal credits and, if applicable, state credits so allocated) shall be refunded to the applicant or such contractual agreements shall terminate, or both, as applicable.

If, as of the date the application is approved by the executive director, the applicant is entitled to an allocation of the federal credits under the IRC, these rules and regulations and the terms of any binding commitment that the authority would have otherwise issued to such

applicant, the executive director may at that time allocate the federal credits (and, if applicable, state credits) to such qualified low-income buildings or development without first providing a reservation of such federal credits (and, if applicable, state credits). This provision in no way limits the authority of the executive director to require a good faith deposit or contractual agreement, or both, as described in the preceding paragraph, nor to relieve the applicant from any other requirements hereunder for eligibility for an allocation of federal credits. Any such allocation shall be subject to ratification by the board in the same manner as provided above with respect to reservations.

The executive director may require that applicants to whom federal credits (and, if applicable, state credits) have been reserved shall submit from time to time or at such specified times as he shall require, written confirmation and documentation as to the status of the proposed development and its compliance with the application, the binding commitment and any contractual agreements between the applicant and the authority. If on the basis of such written confirmation and documentation and as the executive director shall have received in response to such a request, or on the basis of such other available information, or both the executive director determines that any or all of the buildings in the development which were to be become qualified low-income buildings will not be placed in service do so within the time period required by the IRC (and, in the case of state credits, the state code) or will not otherwise qualify for such federal credits (and, if applicable, state credits) under the IRC, these rules and regulations or the binding commitment, then the executive director may terminate the reservation of such federal credits (and, if applicable, state credits) and draw on any good faith deposit. If, in lieu of or in addition to the foregoing determination, the executive director determines that any contractual agreements between the applicant and the authority have been breached by the applicant, whether before or after allocation of the federal credits, he may seek to enforce any and all remedies to which the authority may then be entitled under such contractual agreements.

The executive director may establish such deadlines for determining the ability of the applicant to qualify for the an allocation of federal credits (and, if applicable, state credits) as he shall deem necessary or desirable to allow the authority sufficient time, in the event of a reduction or termination of the applicant's reservation, to reserve such federal credits (and, if applicable, state credits) to other eligible applicants applications and to allocate such federal credits pursuant thereto.

Any material changes to the development, as proposed in the application, occurring subsequent to the submission of the application for the federal credits (and, if applicable, state credits) therefor shall be subject to the prior written approval of the executive director. As a condition to any such approval, the executive director

may, as necessary to comply with these rules and regulations and , the IRC, *the binding commitment and any other contractual agreement between the authority and the applicant*, reduce the amount of federal credits (and, if applicable, state credits) applied for or reserved or impose additional terms and conditions with respect thereto. If such changes are made without the prior written approval of the executive director, he may terminate or reduce the reservation of such federal credits (and, if applicable, state credits) or , impose additional terms and conditions with respect thereto , *seek to enforce any contractual remedies to which the authority may then be entitled, draw on any good faith deposit, or any combination of the foregoing* .

In the event that any reservation of federal credits is terminated or reduced by the executive director under this section, he may reserve or , allocate, or carry over as applicable, such federal credits to other qualified applicants in such manner as he shall determine consistent with the requirements of the IRC and these rules and regulations .

## § 7. Reservation of state credits.

Each applicant may also request a reservation of state credits in his application for a reservation of federal credits. State credits may be reserved only for to those applicants applications (i) to whom which federal credits have been reserved or (ii) who which represent that the applicant will be the owner of any development or buildings to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder. In the case of (ii) above, the applicant for state credits shall submit an application for federal credits (as well as for state credits), and such application shall be submitted, reviewed, and ranked in accordance with these rules and regulations; provided, however, that a reservation shall be made for the state credits only and not for any federal credits.

In order to be eligible for a reservation and allocation of state credits, the development must be owned by one of the following: (i) an individual who is a Virginia taxpayer, (ii) a corporation (other than an S corporation) which is a Virginia taxpayer, (iii) a partnership or an S corporation in which at least 75% of the state credits received by such partnership or S corporation will be allocated to partners or shareholders who are Virginia taxpayers, or (iv) any other legal entity which is a Virginia taxpayer or, in the case of an entity that is taxed on a pass-through basis with respect to tax credits, in which at least 75% of the state credits received by such entity will be allocated to Virginia taxpayers. If more than one of the foregoing shall be joint owners of the development, then the joint tenancy shall be treated as a partnership for purposes of applying the foregoing ownership test. In the case of tiered partnerships, S corporations, and other entities that are taxed on a pass-through basis with respect to tax credits, the ownership test will be applied by looking through such pass-through entities to the underlying owners. The

application shall include such information as the executive director may require in order to determine the owner or owners of the development and the status of such owner or owners or those owning interests therein as Virginia taxpayers. The prior written approval of the authority shall be required for any change in the ownership of the development prior to the end of the calendar year in which all of the buildings in such development shall be placed in service, unless the transferee certifies that it is a Virginia taxpayer or, in the case of a pass-through entity, that 100% of its owners of such entity are Virginia taxpayers.

State credits may be reserved by the executive director to an applicant application only if the maximum amount of federal credits (determined by the use of the full applicable percentage as defined in the IRC, regardless of the amount requested by the applicant) which could be claimed for any development is determined by the executive director not to be sufficient for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC. The amount of state credits which may be reserved shall be equal to the lesser of (i) the amount requested by the applicant or (ii) the amount which is necessary for such financial feasibility and viability as so determined by the executive director. Such determination shall be made by the executive director in the same manner and based upon the same factors and assumptions as the determination described in § 6 with respect to reservation of federal credits. In addition, the executive director may establish assumptions as to the amount of additional net syndication proceeds to be generated by reason of the state credits (based upon such percentage of the state credit dollar amount used for development costs, other than costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development) . The amount of state credits which may be so reserved shall be based upon a percentage of the federal credits as the executive director shall determine to produce such amount of state credits.

The executive director may divide the amount of state credits into pools and may further divide those pools into subpools based upon the factors set forth in § 6 with respect to the federal credits; however, the state credits need not be so divided in the same manner or proportions as the federal credits. Applicants Applications for state credits shall be assigned points and ranked at the same time or times and in the same manner as described in § 6. The executive director shall reserve state credits to applications in descending order of ranking within each pool or subpool, if applicable, until either all state credits therein are reserved or all applicants applications therein eligible for state credits hereunder have received reservations for state credits. Any amounts in any pools or subpools not reserved to applicants applications shall be reallocated at the time or times and in the same manner as the federal credits, among the pools or subpools in which applicants applications eligible for state credits hereunder shall have not received reservations of state

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credits in the full amount permissible under these rules and regulations. Such allocation shall be made pro rata based on the amount originally allocated to each such pool or subpool with such excess ~~applicants applications~~ divided by the total amount originally allocated to all such pools or subpools with such excess ~~applicants applications~~. Such reallocations shall continue to be made until either all of the state credits are reserved or all ~~applicants applications~~ for state credits have received reservations.

Section 6 hereof contains certain provisions relating to ratification by the board of reservations of state credits, requirements for good faith deposits and *contractual agreements*, allocation of state credits without any prior reservation thereof, deadlines for determining the ability of the applicant to qualify for state credits, and reduction and termination of state credits. Such provisions shall be applicable to all applicants for state credits, notwithstanding the fact that the developments or buildings may be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder. In the event that any reservation of state credits is reduced or terminated, the executive director may reserve or allocate, as applicable, such state credits to other eligible applicants in such manner as he shall determine consistent with the requirements of the state code.

## § 8. Allocation of federal credits.

At such time as one or more of an applicant's buildings or an applicant's development which has received a reservation of federal credits (i) is placed in service or satisfies the requirements of § 42 (h)(1)(E) of the IRC and (ii) *meets all of the preallocation requirements of these rules and regulations, the binding commitment and any other applicable contractual agreements between the applicant and the authority*, the applicant shall so advise the authority, shall request the allocation of all of the federal credits so reserved or such portion thereof to which the applicant's buildings or development is then entitled under the IRC, *these rules and regulations, the binding commitment and the aforementioned contractual agreements, if any*, and shall submit such *application, certifications, legal and accounting opinions, evidence as to costs, a breakdown of sources and uses of funds, pro forma financial statements setting forth anticipated cash flows, and other documentation as the executive director shall require in order to determine that the applicant's buildings or development is entitled to such federal credits under the IRC and these rules and regulations as described above*. The applicant shall certify to the authority the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to the buildings or the development.

As of the date of allocation of federal credits to any building or development and as of the date such building or such development is placed in service, the executive director shall determine the amount of federal credits to be necessary for the financial feasibility of the

development and its viability as a qualified low-income housing development throughout the credit period under the IRC. In making such determinations, the executive director shall consider the sources and uses of the funds (including, without limitation, any funds to be derived from the state credits), the available federal, state and local subsidies committed to the development, and the total financing planned for the ~~developments development~~ amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines, in his sole discretion, to be reasonable. The executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive director may establish such criteria and assumptions as he shall then deem reasonable (or he may apply the criteria and assumptions he established pursuant to § 6) for the purpose of making such determinations, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the federal credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of variable rate financing applications without firm financing commitments (as defined in § 6 hereinabove) at fixed interest rates, debt service on the proposed mortgage loan. The amount of federal credits allocated to the applicant shall in no event exceed such amount as so determined by the executive director by more than a *de minimis* amount of not more than \$100.

In the case of any buildings or development to be financed by certain tax-exempt bonds of the authority in such amount so as not to require under the IRC an allocation of federal credits hereunder, the executive director shall, upon timely request by the owner thereof, make the foregoing determination as of the date the buildings or the development is placed in service, and for the purpose of such determination, the owner of the buildings or development shall submit to the authority such of the above described information and documents and such other information and documents as the executive director may require. The executive director shall also determine, in accordance with the IRC and upon timely request by the owner thereof, for such buildings or development (and, in addition, of any buildings or development to be financed by certain tax-exempt bonds of an issuer other than the authority in such amount so as

not to require under the IRC an allocation of federal credits hereunder) whether such buildings or development satisfies the requirements for allocation of federal credits hereunder. For the purposes of such determination, buildings or a development shall be deemed to satisfy the requirements for allocation of federal credits hereunder if the application submitted to the authority in connection therewith is assigned not fewer than the threshold number of points (exclusive of bonus points) under the ranking system described in § 6 hereof.

Prior to allocating the federal credits to an applicant, the executive director shall require the applicant to execute, deliver and record among the land records of the appropriate jurisdiction or jurisdictions an extended low-income housing commitment in accordance with the requirements of the IRC. Such commitment shall require that the applicable fraction (as defined in the IRC) for the buildings for each taxable year in the extended use period (as defined in the IRC) will not be less than the applicable fraction specified in such commitment and which prohibits both (i) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of a low-income unit and (ii) any increase in the gross rent with respect to such unit not otherwise permitted under the IRC. The amount of federal credits allocated to any building shall not exceed the amount necessary to support such applicable fraction, including any increase thereto pursuant to § 42(f)(3) of the IRC reflected in an amendment to such commitment. The commitment shall provide that the extended use period will end on the day 15 years after the close of the compliance period (as defined in the IRC) or on the last day of any longer period of time specified in the application during which low-income housing units in the development will be occupied by tenants with incomes not in excess of the applicable income limitations; provided, however, that the extended use period for any building shall be subject to termination, in accordance with the IRC, (i) on the date the building is acquired by foreclosure or instrument in lieu thereof unless a determination is made pursuant to the IRC that such acquisition is part of an agreement with the current owner thereof, a purpose of which is to terminate such period or (ii) the last day of the one-year period following the written request by the applicant as specified in the IRC (such period in no event beginning earlier than the end of the fourteenth year of the compliance period) if the authority is unable to present during such one-year period a qualified contract (as defined in the IRC) for the acquisition of the low-income portion of the building by any person who will continue to operate such portion the low-income portion thereof as a qualified low-income building (such . In addition, such termination shall not be construed to permit, prior to close of the three-year period following such termination, the eviction or termination of tenancy of any existing tenant of any low-income housing unit other than for good cause or any increase in the gross rents over the maximum rent levels then permitted by the IRC with respect to such low-income housing units } . Such commitment shall also contain such other terms and conditions as the executive

director may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments and information in the application and comply with the requirements of the IRC (and, in the case of an allocation of state credits, the state code) and these rules and regulations. Such commitment shall be a restrictive covenant on the buildings binding on all successors to the applicant and shall be enforceable in any state court of competent jurisdiction by individuals (whether prospective, present or former occupants) who meet the applicable income limitations under the IRC. Such commitment shall also be required with respect to any development financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder and the form thereof shall be made available to owners of such developments upon their timely request therefor .

In accordance with the IRC, the executive director may, for any calendar year during the project period (as defined in the IRC), allocate federal credits to a development, as a whole, which contains more than one building. Such an allocation shall apply only to buildings placed in service during or after prior to the end of the second calendar year after the calendar year for in which such allocation is made, and the portion of such allocation allocated to any building shall be specified not later than the close of the calendar year in which such building is placed in service. Any such allocation shall be subject to satisfaction of all requirements under the IRC.

If the executive director determines that the buildings or development is so entitled to the federal credits, he shall allocate the federal credits (or such portion thereof to which he deems the buildings or the development to be entitled) to the applicant's qualified low income buildings or to the applicant's development in accordance with the requirements of the IRC. If the executive director shall determine that the applicant's buildings or development is not so entitled to the federal credits, he shall not allocate the federal credits and shall so notify the applicant within a reasonable time after such determination is made . In the event that any such applicant shall not request an allocation of all of its reserved federal credits or whose buildings or development shall be deemed by the executive director not to be entitled to any or all of its reserved federal credits, the executive director may reserve or allocate, as applicable, such unallocated federal credits to the buildings or developments of other qualified applicants at such time or times and in such manner as he shall determine consistent with the requirements of the IRC and these rules and regulations .

The executive director may prescribe (i) such deadlines for submissions of requests for allocations of federal credits (and, if applicable, state credits) for any calendar year as he deems necessary or desirable to allow sufficient processing time for the authority to make such allocations within such calendar year. and (ii) such deadlines for satisfaction of all preallocation requirements of the IRC (and, in the case of state credits, the state

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code) , the binding commitment, any contractual agreements between the authority and the applicant and these rules and regulations as he deems necessary or desirable to allow the authority sufficient time to allocate to other eligible applicants any federal credits for which the applicants fail to satisfy such requirements are not satisfied .

The executive director may make the allocation of federal credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development comply with the requirements of the IRC.

The executive director may also (to the extent not already required under § 6 hereof) require the applicant, that all applicants make such good faith deposits or execute such contractual agreements with the authority as the executive director may require with respect to the federal credits (and, if applicable, state credits), (i) to ensure that the building or development are completed in accordance with the binding commitment, including all of the representations made in the application for which points were assigned pursuant to § 6 hereof and (ii) only in the case of any buildings or development which are to receive an allocation of federal credits hereunder and which are to be placed in service in any future year, to make a good faith deposit with respect to the federal credits (and, if applicable, the state credits) to assure that the buildings or the development will be placed in service as a qualified low-income housing project (as defined in the IRC) in accordance with the IRC and that the applicant will otherwise comply with all of the requirements under the IRC.

The executive director may make the allocation of federal credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments and information in the application and comply with the requirements of the IRC and these rules and regulations.

In the event that any the executive director determines that a development for which an allocation of federal credits is made shall not become a qualified low-income housing project (as defined in the IRC) within the time period required by the IRC or the terms of the allocation or any contractual agreements between the applicant and the authority , the executive director may terminate the allocation and rescind the federal credits in accordance with the IRC and, in addition, may draw on any good faith deposit and enforce any of the authority's rights and remedies under any contractual agreement . An allocation of federal credits to an applicant may also be cancelled with the mutual consent of such applicant and the executive director. Upon the termination or cancellation of any federal credits, the executive director may reserve or , allocate or carry over , as applicable, such federal credits to other qualified applicants in such manner as he shall determine consistent with the requirements of the IRC and these rules and regulations .

## § 9. Allocation of state credits.

Upon the allocation of federal credits to an applicant who the buildings or development described in an application which received a reservation of state credits under § 7, the executive director shall allocate state credits to the applicant such buildings or development in an amount equal to the amount of federal credits so allocated times such percentage of federal credits as shall have been determined by the executive director under § 7 but in no event shall such amount of state credits exceed the amount reserved to the applicant application under § 7. If the amount of state credits so allocated to the applicant buildings or development under this § 9 is less than the amount of state credits reserved to the applicant application under § 7, then the executive director may reserve to other applications or allocate to other buildings or developments , as applicable, such unallocated state credits to other applicants at such time or times and in such manner as he shall determine consistent with the requirements of the state code.

In the case of any building buildings or development to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder, the executive director shall, prior to the last day of the calendar year in which such building or development is placed in service reserved state credits , allocate state credits to the applicant buildings or development in an amount equal to the amount of federal credits to be claimed annually by the applicant times such percentage of federal credits as shall have been determined by the executive director under § 7 but in no event shall such amount of state credits exceed the amount reserved to the applicant application under § 7.

Prior to any allocation of state credits, the executive director may require the applicant to confirm the status of the owner or owners as Virginia taxpayers who are eligible for an allocation of state credits under § 7.

The executive director may make the allocation of state credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments, and information in the application and comply with the requirements of the IRC, the state code, and these rules and regulations.

The state credits allocated may be claimed for the first five taxable years in which the federal credits shall be claimed. The amount of state credits claimed in each such year shall be such percentage of the federal credits so claimed as shall have been established by the executive director pursuant to § 7; provided, however, that the amount of state credits which may be claimed by the applicant in the initial taxable year shall be calculated for the entire development on the basis of a twelve-month period during such initial taxable year, notwithstanding that the federal credits may be calculated on the basis of some (but not all) of the buildings in such development or

on the basis of a period of less than twelve months or both; provided, further, that in no event shall the amount of state credits claimed in any year exceed the amount allocated under this § 9.

In the event that any federal credits claimed by the applicant for any taxable year in which the applicant also claimed state credits shall be recaptured pursuant to the IRC, the state credits for such taxable year shall be recaptured in an amount equal to the amount of federal credits recaptured for such taxable year times such percentage as shall have been established by the executive director pursuant to § 7. The applicants receiving state credits shall provide the authority with such information as the executive director may from time to time request regarding any recapture of the federal credits.

On or before such date each year as the executive director may require, each applicant shall apply to the authority to determine the amount of state credits which such applicant may claim for the applicable taxable year. Each such applicant shall submit such documents, certifications and information as the executive director may require. The authority shall certify to the Department of Taxation on forms prepared by the authority that the applicant qualified for the state credits in the amount set forth therein and shall provide such certification to the applicant. Such certification is required to be attached to the applicant's state income tax return to be filed with the Department of Taxation.

Section 8 hereof contains certain provisions relating to (i) the establishment of deadlines for submission of requests for allocation of state credits and for satisfaction of requirements of the IRC and state code and (ii) requirements for good faith deposits and contractual agreements. Such provisions shall be applicable to all applicants for state credits, notwithstanding the fact that the developments or buildings may be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder.

In the event that any allocation of federal credits shall be terminated and rescinded or cancelled pursuant to § 8 (or, in the case of any development or buildings to be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder, in the event that the development shall not become a qualified low-income housing project as defined in the IRC within the time period required by the IRC or by the terms of the allocation of state credits), the executive director may also terminate and rescind or cancel the state credits and, if permitted by the state code, may reserve or allocate, as applicable, such state credits to other qualified applicants at such time or times and in such manner as he shall determine consistent with the requirements of the state code.

§ 10. Reservation and allocation of additional federal credits and state credits.

Prior to the initial determination of the "qualified basis" (as defined in the IRC) of the qualified low-income buildings of a development pursuant to the IRC, an applicant to whose buildings federal credits or state credits or both have been reserved may submit an application for a reservation of additional federal credits or state credits or both. Subsequent to such initial determination of the qualified basis, the applicant may submit an application for an additional allocation of federal credits or state credits or both by reason of an increase in qualified basis based on an increase in the number of low-income housing units or in the amount of floor space of the low-income housing units. Any application for an additional allocation of federal credits or state credits or both shall include such information, opinions, certifications and documentation as the executive director shall require in order to determine that the applicant's buildings or development will be entitled to such additional federal credits or state credits or both under the IRC, the state code and these rules and regulations. The application shall be submitted, reviewed, ranked and selected by the executive director in accordance with the provisions of §§ 6 and 7 hereof, and any allocation of federal credits or state credits or both shall be made in accordance with §§ 8 and 9 hereof. For the purposes of such review, ranking and selection and the determinations to be made by the executive director under the rules and regulations as to the financial feasibility of the development and its viability as a qualified low-income development during the credit period, the amount of federal credits or state credits, or both, previously reserved to the application or allocated to the applicant buildings or development (or, in the case of any development or building to be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder, the amount of federal credits which may be claimed by the applicant) shall be included with the amount of such federal credits or state credits or both so requested.

§ 11. Notification to the Internal Revenue Service of noncompliance with IRC.

In the event that the executive director shall become aware of noncompliance by any applicant with any of the provisions of § 42 of the IRC, the executive director shall, within 90 days, notify the Internal Revenue Service of such noncompliance. Such notification shall identify the applicant and the buildings and shall describe the noncompliance.

\* \* \* \* \*

**Title of Regulation:** VR 400-02-0017. Rules and Regulations for HUD-Insured Home Equity Conversion Mortgage Loans to Elderly Persons of Low and Moderate Income.

**Statutory Authority:** § 36-55.30:3 of the Code of Virginia.

**Public Hearing Date:** N/A - Written comments may be submitted until April 5, 1991.

(See Calendar of Events section)

# Proposed Regulations

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for additional information)

## Summary:

The proposed rules and regulations implement a program for the making of HUD-insured home equity mortgage loans to elderly persons of low and moderate income. These rules and regulations include provisions relative to the application and review process, the terms and conditions applicable to such loans and the general administration of the program.

VR 400-02-0017. Rules and Regulations for HUD-Insured Home Equity Conversion Mortgage Loans to Elderly Persons of Low and Moderate Income.

## PART I. GENERAL PROVISIONS.

### § 1.1. General.

The following rules and regulations will be applicable to home equity conversion mortgage loans insured by the U.S. Department of Housing and Urban Development ("HUD") which are made or are proposed to be made by the Virginia Housing Development Authority ("authority") to enable low and moderate income elderly homeowners to convert a portion of their accumulated home equity into cash funds in order to continue living independently in their own homes.

Home equity conversion mortgage loans may be made pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any home equity conversion mortgage loan hereunder to waive or modify any provisions of these rules and regulations where deemed appropriate by him for good cause, to the extent not inconsistent with the Act.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the mortgagor under the agreements and documents executed in connection with the mortgage loan.

The rules and regulations set forth herein are intended to provide a general description of the authority's program requirements and are not intended to include all actions involved or required in the originating and administration of home equity conversion mortgage loans under the authority's HUD-insured home equity conversion mortgage loan program. These rules and regulations are subject to change at any time by the authority and may be

supplemented by policies, rules and regulations adopted by the authority from time to time.

### § 1.2. Originating agents.

#### A. Approval.

The originating of home equity conversion mortgage loans and the processing of applications for the making thereof in accordance herewith may, at the authority's discretion, be performed through commercial banks, savings and loan associations and private mortgage bankers that are approved as originating agents ("originating agents") of the authority under the authority's rules and regulations for single family loans to persons and families of low and moderate income.

Each originating agent shall enter into an originating agreement ("originating agreement") with the authority containing such terms and conditions as the executive director shall require with respect to the origination, or origination and processing, of home equity conversion mortgage loans hereunder.

Originating agents shall maintain adequate books and records with respect to home equity conversion mortgage loans which they originate or originate and process, as applicable, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the originating agents for originating or originating and processing home equity conversion mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the originating agreements applicable to such originating agents.

#### B. Selection of limited number of originating agents.

The executive director may limit the number of originating agents based upon such factors as he deems relevant, including any of the following:

1. The need and demand for the financing of HUD-insured home equity conversion mortgage loans in various geographic areas of the Commonwealth;
2. The availability of HUD-insured home equity conversion mortgage loans from private lenders in various geographic areas of the Commonwealth;
3. The availability of HUD-certified counseling for applicants for HUD-insured home equity conversion mortgage loans in various geographic areas of the Commonwealth;
4. The need for the expeditious commitment and disbursement of home equity conversion mortgage loans;

5. The cost and difficulty of originating and processing HUD-insured home equity conversion mortgage loans; and

6. The time and cost of training originating agents.

The executive director shall select the limited number of originating agents in such manner, for such periods, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. In so selecting originating agents, the executive director may consider such factors as he deems relevant, including the capability, history and experience of any lender seeking selection and the amount of the origination fee requested by any such lender.

#### C. Allocation of funds.

The executive director shall allocate funds for the making or financing of home equity conversion mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to home equity conversion mortgage loan applicants on a first-come, first-serve or other basis and/or (ii) to originating agents for the origination of home equity conversion mortgage loans to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for home equity conversion mortgage loans;
2. The need and demand for the financing of home equity conversion mortgage loans with such funds in the various geographical areas of the Commonwealth;
3. The cost and difficulty of administration of the allocation of funds; and
4. The capability, history and experience of any originating agents who are to receive an allocation.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds

of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

#### D. Originating guide.

The executive director is authorized to prepare and from time to time revise an originating guide which shall set forth the procedures to be followed by all originating agents responsible for the origination and/or processing of mortgage loans under the applicable originating agreements. Copies of the originating guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the originating guide.

#### E. Making of new mortgage loans.

Home equity conversion mortgage loans shall be made by the authority directly to borrowers with the assistance and services of its originating agents. The review of applications for such home equity conversion mortgage loans and the terms and conditions relating to such home equity conversion mortgage loans shall be governed by and shall comply with the provisions of the applicable originating agreement, the originating guide, the Act and these rules and regulations.

If the applicant and the application for a home equity conversion mortgage loan meet the requirements of the Act and these rules and regulations, the executive director may issue on behalf of the authority a home equity conversion mortgage loan commitment to the applicant, subject to the approval of ratification thereof by the board. Such home equity conversion mortgage loan commitment shall be issued only upon the determination of the authority that such a home equity conversion mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions in the area where the applicant resides. The initial principal limit and term of such home equity conversion mortgage loan, the terms and conditions relating to the disbursement of funds by the authority to the applicant, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the home equity conversion mortgage loan commitment issued on behalf of the authority with respect to such home equity conversion mortgage loan.

#### F. Sale of servicing rights.

The authority may, at its discretion, sell to one or more financial institutions the servicing rights to any home equity conversion mortgage loan made pursuant to these rules and regulations. Such financial institution or institutions shall be selected in such manner, on the basis of such criteria, for such period and subject to such terms

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and conditions as the executive director shall deem appropriate in order to best accomplish the purposes and goals of the authority.

## PART II. LOAN PROCESSING.

### § 2.1. Compliance with HUD and FNMA requirements.

Each home equity conversion mortgage loan must be insured pursuant to the Code of Federal Regulations 24 CFR Parts 200 and 206, as amended (hereinafter the "federal regulations"). These federal regulations impose certain requirements and restrictions on the eligibility of home equity conversion borrowers and residences for insurance by HUD. No loan will be approved or made by the authority unless all of the requirements and restrictions under the federal regulations are met.

The authority intends to sell all of the home equity conversion mortgage loans to the Federal National Mortgage Association ("FNMA"). Therefore, each home equity conversion mortgage loan must satisfy all of the applicable guidelines, requirements, terms and conditions imposed by FNMA.

### § 2.2. Compliance with authority requirements.

#### A. Location.

The property which is to secure the home equity conversion mortgage loan shall be located entirely within the Commonwealth of Virginia.

#### B. Citizenship.

Each borrower for a home equity conversion mortgage loan must either be a United States citizen or have a valid and current alien registration card (U.S. Department of Immigration Form 1-551 or U.S. Department of Immigration Form 1-151).

#### C. Maximum gross income.

The gross family income of an applicant for an authority home equity conversion mortgage loan may not exceed 80% of the area median family income.

For the purposes hereof, the term "gross family income" means the combined annualized gross income of all persons residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. "Gross monthly income" is, in turn, the sum of monthly gross pay plus any additional income from overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation,

income received from trusts, and income received from business activities or investments).

For the purposes hereof, the term "area median family income" means the median family income, adjusted for family size, for the area of the Commonwealth in which the residence is located, as established and published from time to time by HUD.

The authority shall from time to time inform its originating agents by written notification thereto of the foregoing maximum gross family income limits expressed in dollar amounts for each area of the state and each family size. The effective dates of such limits shall be determined by the executive director.

### § 2.3. Terms and conditions of home equity conversion mortgage loans.

#### A. Compliance with HUD and FNMA requirements.

The provisions, terms and conditions of each authority home equity conversion mortgage loan shall conform to all requirements under the federal regulations and all guidelines and requirements of FNMA for the purchase of the home equity conversion mortgage loan.

#### B. Interest rate.

The interest rate to be charged on each home equity conversion mortgage loan shall be an adjustable rate which shall be established and increased or decreased at the times and in the manner specified by the guidelines and requirements of FNMA consistent with the federal regulations.

#### C. Fees and charges at closing.

Pursuant to the federal regulations, the following fees and charges incurred in connection with the origination of the home equity conversion mortgage loan shall be collected from the borrower, either in cash at the time of closing or through an initial payment under the home equity conversion mortgage loan:

1. An origination fee equal to 1.0% of the maximum claim amount as defined in the federal regulations;
2. Recording fees and recording taxes or other charges incident to the recordation of the mortgage;
3. Credit report fee;
4. Survey fee, if required;
5. Title examination fee;
6. Title insurance charge;
7. Appraisal fee; and

8. Such other charges as incurred in closing the home equity conversion mortgage loan and as approved by HUD.

#### D. Monthly servicing fee.

The borrower shall be charged a fixed monthly servicing fee in an amount approved by HUD. The servicing fee shall be added to the outstanding balance of the home equity conversion mortgage loan in accordance with the procedures and requirements established in the federal regulations.

#### § 2.4. Application package.

The originating agent shall submit to the authority for its review such documents and forms as the authority shall require to determine compliance with the requirements imposed by the federal regulations, the guidelines and requirements of FNMA for purchase of the home equity conversion mortgage loan, and the provisions of these rules and regulations.

#### § 2.5. Firm commitment.

##### A. General.

The authority will review the application package submitted by the originating agent and, if and when approved, prepare a submission package to HUD for a firm mortgage insurance commitment. Upon issuance by HUD of a firm mortgage insurance commitment, the authority will issue a mortgage loan commitment to the borrower. The mortgage loan commitment must be accepted and signed by the applicant prior to closing of the home equity conversion mortgage loan. The term of a mortgage loan commitment may be extended in certain cases upon written request by the applicant and approval by the authority.

##### B. Loan rejection.

If the application fails to meet any of the standards, criteria and requirements herein, a rejection letter will be issued by the authority. In order to have the application reconsidered, the applicant must resubmit the application within 30 days after loan rejection. If the application is so resubmitted, any and all credit documentation cannot be more than 90 days old and any appraisal not more than six months old.

#### § 2.6. Loan settlement.

##### A. Loan closing.

Upon the applicant's acceptance of the mortgage loan commitment, the closing instructions and documents will be sent to the closing attorney.

When the authority has determined that all closing requirements have been or will be satisfied, it will

approve closing and, an initial payment check will be sent to the closing attorney together with any additional closing instructions. The closing attorney may disburse the initial payment only after he or she has conducted the loan closing and recorded all necessary documents, including the deed of trust securing repayment of the home equity conversion mortgage loan and in all other respects is in a position to disburse the initial payment in accordance with the commitment and the authority's instructions to the closing attorney.

##### B. Post-closing requirements.

Any fees and charges to be paid in cash by the borrower and all closing documents shall be forwarded to the authority within such time period or periods as the authority shall require.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: Regulations for Coverage of Hospice Services.

VR 460-02-3.1100. Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy.

VR 460-02-3.1200. Amount, Duration and Scope of Services Provided Medically Needy Group(s): All.

VR 460-03-3.1100. Amount, Duration and Scope of Services.

VR 460-02-3.1300. Standards Established and Methods to Assure High Quality of Care.

VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates - Other Types of Care.

VR 460-04-8.8. Regulations for Hospice Services.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public Hearing Date: N/A - Written comments may be submitted until May 10, 1991.

#### Summary:

The purpose of this proposal is to promulgate permanent regulations providing for the coverage of hospice services to supersede the current emergency regulations which became effective July 1, 1990.

The proposed regulations affect state regulations VR 460-04-8.8 governing the provision of hospice services as well as the following sections of the State Plan for Medical Assistance: "Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy" (Attachment 3.1-A); "Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Medically Needy" (Attachment 3.1-B); "Standards Established and Methods Used to Assure High Quality Care" (Attachment 3.1-C); and "Methods and Standards for Establishing Payment Rates—Other Types of Care"

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(Attachment 4.19 B).

Hospice is a medically-directed, interdisciplinary program of palliative services for the terminally ill and their families. Hospice emphasizes the control of pain and symptoms by use of a team of professionals, including physicians, nurses, counselors, therapists, aides and volunteers. The majority of hospice services are delivered in the home with inpatient care available as needed.

For service provided on and after July 1, 1990, DMAS covers hospice care provided by Medicare-certified hospices licensed in Virginia and enrolled as Medicaid providers. To be eligible for hospice coverage, the Medicaid recipient must be terminally ill (defined as having a life expectancy of six months or less) and must have chosen to receive hospice services rather than active treatment for their illness.

For the first 90-day period of hospice coverage, a physician must certify that the individual is terminally ill, and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. Recertification of the patient's limited life expectancy must be made by the hospice medical director at subsequent 90- and 30-day periods and for a subsequent extension period during the individual's lifetime. (The requirement for the subsequent extension period was mandated under Medicare by the Omnibus Budget Reconciliation Act of 1990, and constitutes the only significant change to the proposed regulations from the emergency regulations. Other changes were minor for clarity.) A plan of care must be established by the hospice interdisciplinary team before services are provided. Services must be consistent with the plan of care.

Medicare began covering hospice services in 1983, mandated by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). With few exceptions, the elements of the state Medicaid hospice programs are required to mirror those for the Medicare program. As described for Medicare and applicable to Medicaid, hospice services entail the following four reimbursement categories of daily care:

*Routine home care is at-home care that is not continuous.*

*Continuous home care is predominantly nursing care provided in the home as short-term crisis care. Home health aide or homemaker services may be provided in addition to nursing care. A minimum of 8 hours of care per day must be provided to qualify as continuous home care.*

*Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the recipient's primary caregiver(s). Respite care is*

*limited to not more than 5 consecutive days.*

*General inpatient care may be provided in an approved freestanding hospice, hospital, or nursing facility usually for pain control or acute or chronic symptom management which cannot be successfully treated in another setting.*

*To be reimbursed, all four categories must include the following core services provided by the hospice's employees: nursing care, physician services, medical social services and counseling. Other services that must be available include home health aide and homemaker services. In addition, if the patient's condition warrants it, durable medical equipment and supplies, drugs and biologicals and rehabilitation services (for symptom control and maintenance of activities of daily living) may be provided. The hospice may contract for supplemental services to meet unusual staffing needs that cannot be anticipated and that occur so infrequently that it would not be practical to hire additional staff to fill these needs.*

*The hospice is responsible for providing or arranging for all services pertaining to the terminal illness. Hospices may contract for physician specialty services. If contracting is used for any services, the hospice must maintain professional, financial, and administrative responsibility for the services and must ensure that all staff meet the regulatory qualification requirements. All services must be performed by appropriately qualified personnel. The nature of the service, rather than the qualification of the person who provides it, determines the coverage category of the service.*

*Hospice services will require an initial authorization and physician certification. Utilization review will be conducted to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate.*

**VR 460-02-3.1100. Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy.**

15.a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined, in accordance with section 1902(a)(31)(A) of the Act, to be in need of such care.

Provided:  No limitations  With limitations\*  
 Not provided.

b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

Provided:  No limitations  With limitations\*  
 Not provided.

16. Inpatient psychiatric facility services for individuals under 22 years of age.

- Provided:  No limitations  With limitations\*  
 Not provided.

17. Nurse-midwife services

- Provided:  No limitations  With limitations\*  
 Not provided.

18. Hospice care (in accordance with section 1905(o) of the Act).

- Provided:  No limitations  with limitations\*  
 Not provided.

\* Description provided on attachment.

**VR 460-02-3.1200. Amount, Duration and Scope of Services Provided Medically Needy Groups: All.**

c. Intermediate care facility services.

- Provided:  No limitations  With limitations\*

15.a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined in accordance with section 1902(a)(31)(a) of the Act, to be in need of such care.

- Provided:  No limitations  With limitations\*

b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

- Provided:  No limitations  With limitations\*

16. Inpatient psychiatric facility services for individuals under 22 years of age.

- Provided:  No limitations  With limitations\*

17. Nurse-midwife services.

- Provided:  No limitations  With limitations\*

18. Hospice care (in accordance with section 1905(o) of the Act).

- Provided:  No limitations  With limitations\*

\* Description provided on attachment.

**VR 460-03-3.1100. Amount, Duration and Scope of Services.**

§ 1. Inpatient hospital services other than those provided in an institution for mental diseases.

A. Medicaid inpatient hospital admissions (lengths-of-stay) are limited to the 75th percentile of PAS (Professional Activity Study of the Commission on Professional and Hospital Activities) diagnostic/procedure limits. For admissions under 15 days that exceed the 75th percentile, the hospital must attach medical justification records to the billing invoice to be considered for additional coverage when medically justified. For all admissions that exceed 14 days up to a maximum of 21 days, the hospital must attach medical justification records to the billing invoice. (See the exception to subsection F of this section.)

B. Medicaid does not pay the medicare (Title XVIII) coinsurance for hospital care after 21 days regardless of the length-of-stay covered by the other insurance. (See exception to subsection F of this section.)

C. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment to health or life of the mother if the fetus were carried to term.

D. Reimbursement for covered hospital days is limited to one day prior to surgery, unless medically justified. Hospital claims with an admission date more than one day prior to the first surgical date will pend for review by medical staff to determine appropriate medical justification. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement for additional preoperative days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

E. Reimbursement will not be provided for weekend (Friday/Saturday) admissions, unless medically justified. Hospital claims with admission dates on Friday or Saturday will be pended for review by medical staff to determine appropriate medical justification for these days. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement coverage for these days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

F. Coverage of inpatient hospitalization will be limited to a total of 21 days for all admissions within a fixed period, which would begin with the first day inpatient hospital services are furnished to an eligible recipient and end 60 days from the day of the first admission. There may be multiple admissions during this 60-day period; however, when total days exceed 21, all subsequent claims will be reviewed. Claims which exceed 21 days within 60 days with a different diagnosis and medical justification will be paid. Any claim which has the same or similar diagnosis will be denied.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE

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**INDIVIDUALS UNDER 21 YEARS OF AGE:** Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical staff to determine medical necessity. Medically unjustified days in such admissions will be denied.

G. Reimbursement will not be provided for inpatient hospitalization for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the hospital invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in the retroactive eligibility period.

H. Reimbursement will not be provided for inpatient hospitalization for those surgical and diagnostic procedures listed on the mandatory outpatient surgery list unless the inpatient stay is medically justified or meets one of the exceptions. The requirements for mandatory outpatient surgery do not apply to recipients in the retroactive eligibility period.

I. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

J. The department may exempt portions or all of the utilization review documentation requirements of subsections A, D, E, F as it pertains to recipients under age 21, G, or H in writing for specific hospitals from time to time as part of their ongoing hospital utilization review performance evaluation. These exemptions are based on utilization review performance and review edit criteria which determine an individual hospital's review status as specified in the hospital provider manual. In compliance with federal regulations at 42 CFR 441.200, Subparts E and F, claims for hospitalization in which sterilization, hysterectomy or abortion procedures were performed, shall be subject to medical documentation requirements.

K. Hospitals qualifying for an exemption of all documentation requirements except as described in subsection J above shall be granted "delegated review status" and shall, while the exemption remains in effect, not be required to submit medical documentation to support pended claims on a prepayment hospital utilization review basis to the extent allowed by federal or state law or regulation. The following audit conditions apply to delegated review status for hospitals:

1. The department shall conduct periodic on-site post-payment audits of qualifying hospitals using a statistically valid sampling of paid claims for the purpose of reviewing the medical necessity of inpatient stays.

2. The hospital shall make all medical records of which medical reviews will be necessary available upon request, and shall provide an appropriate place for the department's auditors to conduct such review.

3. The qualifying hospital will immediately refund to the department in accordance with § 32.1-325.1 A and B of the Code of Virginia the full amount of any initial overpayment identified during such audit.

4. The hospital may appeal adverse medical necessity and overpayment decisions pursuant to the current administrative process for appeals of post-payment review decisions.

5. The department may, at its option, depending on the utilization review performance determined by an audit based on criteria set forth in the hospital provider manual, remove a hospital from delegated review status and reapply certain or all prepayment utilization review documentation requirements.

## § 2. Outpatient hospital and rural health clinic services.

### 2a. Outpatient hospital services.

1. Outpatient hospital services means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that:

a. Are furnished to outpatients;

b. Except in the case of nurse-midwife services, as specified in § 440.165, are furnished by or under the direction of a physician or dentist; and

c. Are furnished by an institution that:

(1) Is licensed or formally approved as a hospital by an officially designated authority for state standard-setting; and

(2) Except in the case of medical supervision of nurse-midwife services, as specified in § 440.165, meets the requirements for participation in

Medicare.

2. Reimbursement for induced abortions is provided in only those cases in which there would be substantial endangerment of health or life to the mother if the fetus were carried to term.

3. Reimbursement will not be provided for outpatient hospital services for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the invoice for payment, or is a justified emergency or exemption.

2b. Rural health clinic services and other ambulatory services furnished by a rural health clinic.

The same service limitations apply to rural health clinics as to all other services.

2c. Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with § 4231 of the State Medicaid Manual (HCFA Pub. 45-4).

The same service limitations apply to FQHCs as to all other services.

### § 3. Other laboratory and x-ray services.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

### § 4. Skilled nursing facility services, EPSDT and family planning.

4a. Skilled nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

4b. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

1. Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities, and the accompanying attendant physician care, in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination.

2. Routine physicals and immunizations (except as

provided through EPSDT) are not covered except that well-child examinations in a private physician's office are covered for foster children of the local social services departments on specific referral from those departments.

3. Orthoptics services shall only be reimbursed if medically necessary to correct a visual defect identified by an EPSDT examination or evaluation. The department shall place appropriate utilization controls upon this service.

4c. Family planning services and supplies for individuals of child-bearing age.

Service must be ordered or prescribed and directed or performed within the scope of the license of a practitioner of the healing arts.

§ 5. Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere.

A. Elective surgery as defined by the Program is surgery that is not medically necessary to restore or materially improve a body function.

B. Cosmetic surgical procedures are not covered unless performed for physiological reasons and require Program prior approval.

C. Routine physicals and immunizations are not covered except when the services are provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and when a well-child examination is performed in a private physician's office for a foster child of the local social services department on specific referral from those departments.

D. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension (subject to the approval of the Psychiatric Review Board) of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period. These limitations also apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine.

E. Any procedure considered experimental is not covered.

F. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus were carried to term.

G. Physician visits to inpatient hospital patients are limited to a maximum of 21 days per admission within 60

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days for the same or similar diagnoses and is further restricted to medically necessary inpatient hospital days as determined by the Program.

**EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE:** Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Payments for physician visits for inpatient days determined to be medically unjustified will be adjusted.

H. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

I. Reimbursement will not be provided for physician services for those selected elective surgical procedures requiring a second surgical opinion unless a properly executed second surgical opinion form has been submitted with the invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in a retroactive eligibility period.

J. Reimbursement will not be provided for physician services performed in the inpatient setting for those surgical or diagnostic procedures listed on the mandatory outpatient surgery list unless the service is medically justified or meets one of the exceptions. The requirements of mandatory outpatient surgery do not apply to recipients in a retroactive eligibility period.

K. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

§ 6. Medical care by other licensed practitioners within the scope of their practice as defined by state law.

A. Podiatrists' services.

1. Covered podiatry services are defined as reasonable and necessary diagnostic, medical, or surgical treatment of disease, injury, or defects of the human

foot. These services must be within the scope of the license of the podiatrists' profession and defined by state law.

2. The following services are not covered: preventive health care, including routine foot care; treatment of structural misalignment not requiring surgery; cutting or removal of corns, warts, or calluses; experimental procedures; acupuncture.

3. The Program may place appropriate limits on a service based on medical necessity or for utilization control, or both.

B. Optometric services.

1. Diagnostic examination and optometric treatment procedures and services by ophthalmologists, optometrists, and opticians, as allowed by the Code of Virginia and by regulations of the Boards of Medicine and Optometry, are covered for all recipients. Routine refractions are limited to once in 24 months except as may be authorized by the agency.

C. Chiropractors' services.

Not provided.

D. Other practitioners' services.

1. Clinical psychologists' services.

a. These limitations apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period.

b. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

§ 7. Home health services.

A. Service must be ordered or prescribed and directed or performed within the scope of a license of a practitioner of the healing arts.

B. Intermittent or part-time nursing service provided by a home health agency or by a registered nurse when no home health agency exists in the area.

C. Home health aide services provided by a home health agency.

Home health aides must function under the supervision of a professional nurse.

D. Medical supplies, equipment, and appliances suitable for use in the home.

1. All medical supplies, equipment, and appliances are available to patients of the home health agency.
2. Medical supplies, equipment, and appliances for all others are limited to home renal dialysis equipment and supplies, and respiratory equipment and oxygen, and ostomy supplies, as preauthorized by the local health department.

E. Physical therapy, occupational therapy, or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility.

Service covered only as part of a physician's plan of care.

## § 8. Private duty nursing services.

Not provided.

## § 9. Clinic services.

A. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus was carried to term.

B. Clinic services means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that:

1. Are provided to outpatients;
2. Are provided by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients; and
3. Except in the case of nurse-midwife services, as specified in 42 CFR § 440.165, are furnished by or under the direction of a physician or dentist.

## § 10. Dental services.

A. Dental services are limited to recipients under 21 years of age in fulfillment of the treatment requirements under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and defined as routine diagnostic, preventive, or restorative procedures necessary for oral health provided by or under the direct supervision of a dentist in accordance with the State Dental Practice Act.

B. Initial, periodic, and emergency examinations; required radiography necessary to develop a treatment plan; patient education; dental prophylaxis; fluoride

treatments; dental sealants; routine amalgam and composite restorations; crown recementation; pulpotomies; emergency endodontics for temporary relief of pain; pulp capping; sedative fillings; therapeutic apical closure; topical palliative treatment for dental pain; removal of foreign body; simple extractions; root recovery; incision and drainage of abscess; surgical exposure of the tooth to aid eruption; sequestrectomy for osteomyelitis; and oral antral fistula closure are dental services covered without preauthorization by the state agency.

C. All covered dental services not referenced above require preauthorization by the state agency. The following services are also covered through preauthorization: medically necessary full banded orthodontics, for handicapping malocclusions, minor tooth guidance or repositioning appliances, complete and partial dentures, surgical preparation (alveoloplasty) for prosthetics, single permanent crowns, and bridges. The following service is not covered: routine bases under restorations.

D. The state agency may place appropriate limits on a service based on medical necessity, for utilization control, or both. Examples of service limitations are: examinations, prophylaxis, fluoride treatment (once/six months); space maintenance appliances; bitewing x-ray - two films (once/12 months); routine amalgam and composite restorations (once/three years); dentures (once per 5 years); extractions, orthodontics, tooth guidance appliances, permanent crowns, and bridges, endodontics, patient education and sealants (once).

E. Limited oral surgery procedures, as defined and covered under Title XVIII (Medicare), are covered for all recipients, and also require preauthorization by the state agency.

## § 11. Physical therapy and related services.

### 11a. Physical therapy.

A. Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

B. Effective July 1, 1988, the Program will not provide direct reimbursement to enrolled providers for physical therapy services rendered to patients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing homes' operating cost.

### 11b. Occupational therapy.

Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an

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authorized service by a cost provider who provides rehabilitation services.

11c. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist; see General section and subsections 11a and 11b of this section).

These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

§ 12. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.

## 12a. Prescribed drugs.

1. Nonlegend drugs, except insulin, syringes, needles, diabetic test strips for clients under 21 years of age, and family planning supplies are not covered by Medicaid. This limitation does not apply to Medicaid recipients who are in skilled and intermediate care facilities.

2. Legend drugs, with the exception of anorexiants drugs prescribed for weight loss and transdermal drug delivery systems, are covered. Coverage of anorexiants for other than weight loss requires preauthorization.

3. The Program will not provide reimbursement for drugs determined by the Food and Drug Administration (FDA) to lack substantial evidence of effectiveness.

4. Notwithstanding the provisions of § 32.1-87 of the Code of Virginia, prescriptions for Medicaid recipients for specific multiple source drugs shall be filled with generic drug products listed in the Virginia Voluntary Formulary unless the physician or other practitioners so licensed and certified to prescribe drugs certifies in his own handwriting "brand necessary" for the prescription to be dispensed as written.

5. New drugs, except for Treatment Investigational New Drugs (Treatment IND), are not covered until approved by the board, unless a physician obtains prior approval. The new drugs listed in Supplement 1 to the New Drug Review Program regulations (VR 460-05-2000.1000) are not covered.

## 12b. Dentures.

Provided only as a result of EPSDT and subject to medical necessity and preauthorization requirements specified under Dental Services.

## 12c. Prosthetic devices.

A. Prosthetics services shall mean the replacement of missing arms and legs. Nothing in this regulation shall be construed to refer to orthotic services or devices.

B. Prosthetic devices (artificial arms and legs, and their necessary supportive attachments) are provided when prescribed by a physician or other licensed practitioner of the healing arts within the scope of their professional licenses as defined by state law. This service, when provided by an authorized vendor, must be medically necessary, and preauthorized for the minimum applicable component necessary for the activities of daily living.

## 12d. Eyeglasses.

Eyeglasses shall be reimbursed for all recipients younger than 21 years of age according to medical necessity when provided by practitioners as licensed under the Code of Virginia.

§ 13. Other diagnostic, screening, preventive, and rehabilitative services, i.e., other than those provided elsewhere in this plan.

## 13a. Diagnostic services.

Not provided.

## 13b. Screening services.

Not provided.

## 13c. Preventive services.

Not provided.

## 13d. Rehabilitative services.

1. Medicaid covers intensive inpatient rehabilitation services as defined in § 2.1 in facilities certified as rehabilitation hospitals or rehabilitation units in acute care hospitals which have been certified by the Department of Health to meet the requirements to be excluded from the Medicare Prospective Payment System.

2. Medicaid covers intensive outpatient rehabilitation services as defined in § 2.1 in facilities which are certified as Comprehensive Outpatient Rehabilitation Facilities (CORFs), or when the outpatient program is administered by a rehabilitation hospital or an exempted rehabilitation unit of an acute care hospital certified and participating in Medicaid.

3. These facilities are excluded from the 21-day limit otherwise applicable to inpatient hospital services. Cost reimbursement principles are defined in Attachment 4.19-A.

4. An intensive rehabilitation program provides intensive skilled rehabilitation nursing, physical

therapy, occupational therapy, and, if needed, speech therapy, cognitive rehabilitation, prosthetic-orthotic services, psychology, social work, and therapeutic recreation. The nursing staff must support the other disciplines in carrying out the activities of daily living, utilizing correctly the training received in therapy and furnishing other needed nursing services. The day-to-day activities must be carried out under the continuing direct supervision of a physician with special training or experience in the field of rehabilitation.

§ 14. Services for individuals age 65 or older in institutions for mental diseases.

14a. Inpatient hospital services.

Provided, no limitations.

14b. Skilled nursing facility services.

Provided, no limitations.

14c. Intermediate care facility.

Provided, no limitations.

§ 15. Intermediate care services and intermediate care services for institutions for mental disease and mental retardation.

15a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined, in accordance with § 1902 (a)(31)(A) of the Act, to be in need of such care.

Provided, no limitations.

15b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

Provided, no limitations.

§ 16. Inpatient psychiatric facility services for individuals under 22 years of age.

Not provided.

§ 17. Nurse-midwife services.

Covered services for the nurse midwife are defined as those services allowed under the licensure requirements of the state statute and as specified in the Code of Federal Regulations, i.e., maternity cycle.

§ 18. Hospice care (in accordance with § 1905 (o) of the Act).

Not provided.

A. Covered hospice services shall be defined as those services allowed under the provisions of Medicare law and regulations as they relate to hospice benefits and as specified in the Code of Federal Regulations, Title 42, Part 418.

B. Categories of care.

As described for Medicare and applicable to Medicaid, hospice services shall entail the following four categories of daily care:

1. Routine home care is at-home care that is not continuous.

2. Continuous home care consists of at-home care that is predominantly nursing care and is provided as short-term crisis care. A registered or licensed practical nurse must provide care for more than half of the period of the care. Home health aide or homemaker services may be provided in addition to nursing care. A minimum of 8 hours of care per day must be provided to qualify as continuous home care.

3. Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary caregiver(s) providing at-home care for the recipient. Respite care is limited to not more than 5 consecutive days.

4. General inpatient care may be provided in an approved freestanding hospice, hospital, or nursing facility. This care is usually for pain control or acute or chronic symptom management which cannot be successfully treated in another setting.

C. Covered services.

1. As required under Medicare and applicable to Medicaid, the hospice itself must provide all or substantially all of the "core" services applicable for the terminal illness which are nursing care, physician services, social work, and counseling (bereavement, dietary, and spiritual).

2. Other services applicable for the terminal illness that must be available but are not considered "core" services are drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupational and physical therapies and speech-language services.

3. These other services may be arranged, such as by contractual agreement, or provided directly by the hospice.

4. To be covered, a certification that the individual is terminally ill must have been completed by the physician and hospice services must be reasonable and necessary for the palliation or management of the

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terminal illness and related conditions. The individual must elect hospice care and a plan of care must be established before services are provided. To be covered, services must be consistent with the plan of care. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no coverage will be provided.

5. All services must be performed by appropriately qualified personnel, but it is the nature of the service, rather than the qualification of the person who provides it, that determines the coverage category of the service. The following services are covered hospice services:

a. **Nursing care.** Nursing care must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

b. **Medical social services.** Medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

c. **Physician services.** Physician services must be performed by a professional who is licensed to practice, who is acting within the scope of his or her license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.

d. **Counseling services.** Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

e. **Short-term inpatient care.** Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

f. **Durable medical equipment and supplies.** Durable

medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness is covered. Medical supplies include those that are part of the written plan of care.

g. **Drugs and biologicals.** Only drugs used which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

h. **Home health aide and homemaker services.** Home health aides providing services to hospice recipients must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

i. **Rehabilitation services.** Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

## D. Eligible groups.

To be eligible for hospice coverage under Medicare or Medicaid, the recipient must have a life expectancy of six months or less, have knowledge of the illness and life expectancy, and elect to receive hospice services rather than active treatment for the illness. Both the attending physician and the hospice medical director must certify the life expectancy. The hospice must obtain the certification that an individual is terminally ill in accordance with the following procedures:

1. For the first 90-day period of hospice coverage, the hospice must obtain, within two calendar days after the period begins, a written certification statement signed by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician. For the initial 90-day period, if the hospice cannot obtain written certifications within two calendar days, it must obtain oral certifications within two calendar days, and written certifications no later than eight calendar days after the period begins.

2. For any subsequent 90-day or 30-day period or a subsequent extension period during the individual's

*lifetime, the hospice must obtain, no later than two calendar days after the beginning of that period, a written certification statement prepared by the medical director of the hospice or the physician member of the hospice's interdisciplinary group. The certification must include the statement that the individual's medical prognosis is that his or her life expectancy is six months or less and the signature(s) of the physician(s). The hospice must maintain the certification statements.*

§ 19. Case management services for high-risk pregnant women and children up to age 1, as defined in Supplement 2 to Attachment 3.1-A in accordance with § 1915(g)(1) of the Act.

Provided, with limitations. See Supplement 2 for detail.

§ 20. Extended services to pregnant women.

20a. Pregnancy-related and postpartum services for 60 days after the pregnancy ends.

The same limitations on all covered services apply to this group as to all other recipient groups.

20b. Services for any other medical conditions that may complicate pregnancy.

The same limitations on all covered services apply to this group as to all other recipient groups.

§ 21. Any other medical care and any other type of remedial care recognized under state law, specified by the Secretary of Health and Human Services.

21a. Transportation.

Nonemergency transportation is administered by local health department jurisdictions in accordance with reimbursement procedures established by the Program.

21b. Services of Christian Science nurses.

Not provided.

21c. Care and services provided in Christian Science sanatoria.

Provided, no limitations.

21d. Skilled nursing facility services for patients under 21 years of age.

Provided, no limitations.

21e. Emergency hospital services.

Provided, no limitations.

21f. Personal care services in recipient's home,

prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse.

Not provided.

Emergency Services for Aliens (17.e)

No payment shall be made for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law unless such services are necessary for the treatment of an emergency medical condition of the alien.

Emergency services are defined as:

Emergency treatment of accidental injury or medical condition (including emergency labor and delivery) manifested by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical/surgical attention could reasonably be expected to result in:

1. Placing the patient's health in serious jeopardy;
2. Serious impairment of bodily functions; or
3. Serious dysfunction of any bodily organ or part.

Medicaid eligibility and reimbursement is conditional upon review of necessary documentation supporting the need for emergency services. Services and inpatient lengths of stay cannot exceed the limits established for other Medicaid recipients.

Claims for conditions which do not meet emergency criteria for treatment in an emergency room or for acute care hospital admissions for intensity of service or severity of illness will be denied reimbursement by the Department of Medical Assistance Services.

**VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.**

The following is a description of the standards and the methods that will be used to assure that the medical and remedial care and services are of high quality:

§ 1. Institutional care will be provided by facilities qualified to participate in Title XVIII and/or Title XIX.

§ 2. Utilization control.

A. Hospitals.

1. The Commonwealth of Virginia is required by state law to take affirmative action on all hospital stays that approach 15 days. It is a requirement that the hospitals submit to the Department of Medical Assistance Services complete information on all

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hospital stays where there is a need to exceed 15 days. The various documents which are submitted are reviewed by professional program staff, including a physician who determines if additional hospitalization is indicated. This review not only serves as a mechanism for approving additional days, but allows physicians on the Department of Medical Assistance Services' staff to evaluate patient documents and give the Program an insight into the quality of care by individual patient. In addition, hospital representatives of the Medical Assistance Program visit hospitals, review the minutes of the Utilization Review Committee, discuss patient care, and discharge planning.

2. In each case for which payment for inpatient hospital services, or inpatient mental hospital services is made under the State Plan:

a. A physician must certify at the time of admission, or if later, the time the individual applies for medical assistance under the State Plan that the individual requires inpatient hospital or mental hospital care .

b. The physician, or a physician assistant under the supervision of a physician, must recertify , at least every 60 days, that patients continue to require inpatient hospital or mental hospital care .

c. Such services were furnished under a plan established and periodically reviewed and evaluated by a physician for inpatient hospital or mental hospital services .

## B. Nursing homes.

### (Skilled and Intermediate Care Facility)

1. As required by federal law, the Department of Medical Assistance Services visits every Medicaid patient that is residing in a nursing home in Virginia. The purpose of the visit is to do a complete medical and social evaluation of the patient. The visit also includes patient interviews, discussions with the professional staff, and the attending physician. Thus, it is assured that quality care is rendered to these recipients and that the patient is receiving the proper level of care.

2. Long term care of patients in medical institutions will be provided in accordance with procedures and practices that are based on the patient's medical and social needs and requirements.

3. In each case for which payment for services, skilled nursing facility services , or intermediate care facility services is made under the State Plan:

a. A physician, or a nurse practitioner or clinical nurse specialist, who is not an employee of the

facility but is working in collaboration with a physician, must certify at the time of admission, or if later, the time the individual applies for medical assistance under the State Plan that the individual requires the skilled or intermediate level of care. The Nursing Home Preadmission Screening shall serve as the admission or initial certification for intermediate or skilled nursing home care if the date of the screening occurred within 30 days prior to the admission;

b. The physician, or nurse practitioner or clinical nurse specialist, who is not an employee of the facility but is working in collaboration with a physician, must recertify the need for skilled or intermediate level of care. Recertifications must be written according to the following schedule:

(1) Skilled Nursing Facility Services - at least:

30 days after the date of the initial certification,

60 days after the date of the initial certification,

90 days after the date of the initial certification, and

every 60 days thereafter;

(2) Intermediate Nursing Home Care - at least:

60 days after the date of the initial certification,

180 days after the date of the initial certification,

12 months after the date of the initial certification,

18 months after the date of the initial certification,

24 months after the date of the initial certification, and

every 12 months thereafter;

(3) Intermediate Care Facilities for the Mentally Retarded - at least every 365 days;

c. For the purpose of determining compliance with the schedule established by paragraph b, a recertification shall be considered to have been done on a timely basis if it was performed not later than 10 days after the date the recertification was otherwise required, if the physician, or other person making such recertification, provides a written statement showing good cause why such recertification did not meet such schedule;

d. Such services were furnished under a plan established and periodically reviewed and evaluated by a physician or a nurse practitioner or clinical nurse specialist who is not an employee of the

facility but who is working in collaboration with a physician for skilled or intermediate care services ;

e. The schedule of recertifications set forth in paragraph b shall become effective for all admissions and recertifications due on or after October 1, 1984, except that this amendment made by this section shall not require recertifications sooner or more frequently than every 60 days for skilled care patients admitted before October 1, 1984;

f. The addition of the nurse practitioner or clinical nurse specialist, as qualified in paragraphs a, b, and d, shall apply to certifications, recertifications, and plans of care for skilled or intermediate care written on or after July 1, 1988, and before October 1, 1990;

g. The Department of Medical Assistance Services will recover payments made for periods of care in which the certifications, recertifications, and plans of care documentation does not meet the time schedule of this section to the extent required by federal law.

h. In addition, a fiscal penalty of 1-1/2% per month of the disallowed payment will be assessed against the nursing home from the time the noncertified service was rendered until payment is received by the Virginia Medical Assistance Program (§ 32.1-313 of the Code of Virginia ). No efforts by the nursing home shall be exerted to recoup this penalty from the patient or responsible party.

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PART I.  
ADMISSION CRITERIA FOR REHABILITATIVE SERVICES.

§ 1.1. A patient qualifies for intensive inpatient or outpatient rehabilitation if:

A. Adequate treatment of his medical condition requires an intensive rehabilitation program consisting of a multi-disciplinary coordinated team approach to upgrade his ability to function as independently as possible; and

B. It has been established that the rehabilitation program cannot be safely and adequately carried out in a less intense setting.

§ 1.2. In addition to the initial disability requirement, participants shall meet the following criteria:

A. Require at least two of the listed therapies in addition to rehabilitative nursing:

- 1. Occupational Therapy

- 2. Physical Therapy

- 3. Cognitive Rehabilitation

- 4. Speech-Language Therapy

B. Medical condition stable and compatible with an active rehabilitation program.

PART II.  
INPATIENT ADMISSION AUTHORIZATION.

§ 2.1. Within 72 hours of a patient's admission to an inpatient rehabilitation program, or within 72 hours of notification to the facility of the patient's Medicaid eligibility, the facility shall notify the Department of Medical Assistance Services in writing of the patient's admission. This notification shall include a description of the admitting diagnoses, plan of treatment, expected progress and a physician's certification that the patient meets the admission criteria. The Department of Medical Assistance Services will make a determination as to the appropriateness of the admission for Medicaid payment and notify the facility of its decision. If payment is approved, the Department will establish and notify the facility of an approved length of stay. Additional lengths of stay shall be requested in writing and approved by the Department. Admissions or lengths of stay not authorized by the Department of Medical Assistance Services will not be approved for payment.

PART III.  
DOCUMENTATION REQUIREMENTS.

§ 3.1. Documentation of rehabilitation services shall, at a minimum:

A. Describe the clinical signs and symptoms of the patient necessitating admission to the rehabilitation program;

B. Describe any prior treatment and attempts to rehabilitate the patient;

C. Document an accurate and complete chronological picture of the patient's clinical course and progress in treatment;

D. Document that a multi-disciplinary coordinated treatment plan specifically designed for the patient has been developed;

E. Document in detail all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response to treatment, and identify who provided such treatment;

F. Document each change in each of the patient's conditions;

G. Describe responses to and the outcome of treatment;

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and

H. Describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination.

§ 3.2. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no coverage will be provided.

## PART IV. INPATIENT REHABILITATION EVALUATION.

§ 4.1. For a patient with a potential for rehabilitation for which an outpatient assessment cannot be adequately performed, an inpatient evaluation of no more than seven calendar days will be allowed. A comprehensive assessment will be made of the patient's medical condition, functional limitations, prognosis, possible need for corrective surgery, attitude toward rehabilitation, and the existence of any social problems affecting rehabilitation. After these assessments have been made, the physician, in consultation with the rehabilitation team, shall determine and justify the level of care required to achieve the stated goals.

§ 4.2. If during a previous hospital stay an individual completed a rehabilitation program for essentially the same condition for which inpatient hospital care is now being considered, reimbursement for the evaluation will not be covered unless there is a justifiable intervening circumstance which necessitates a re-evaluation.

§ 4.3. Admissions for evaluation and/or training for solely vocational or educational purposes or for developmental or behavioral assessments are not covered services.

## PART V. CONTINUING EVALUATION.

§ 5.1. Team conferences shall be held as needed but at least every two weeks to assess and document the patient's progress or problems impeding progress. The team shall periodically assess the validity of the rehabilitation goals established at the time of the initial evaluation, and make appropriate adjustments in the rehabilitation goals and the prescribed treatment program. A review by the various team members of each others' notes does not constitute a team conference. A summary of the conferences, noting the team members present, shall be recorded in the clinical record and reflect the reassessments of the various contributors.

§ 5.2. Rehabilitation care is to be terminated, regardless of the approved length of stay, when further progress toward the established rehabilitation goal is unlikely or further rehabilitation can be achieved in a less intensive setting.

## PART VI.

## THERAPEUTIC FURLOUGH DAYS.

§ 6.1. Properly documented medical reasons for furlough may be included as part of an overall rehabilitation program. Unoccupied beds (or days) resulting from an overnight therapeutic furlough will not be reimbursed by the Department of Medical Assistance Services.

## PART VII. DISCHARGE PLANNING.

§ 7.1. Discharge planning shall be an integral part of the overall treatment plan which is developed at the time of admission to the program. The plan shall identify the anticipated improvements in functional abilities and the probable discharge destination. The patient, unless unable to do so, or the responsible party shall participate in the discharge planning. Notations concerning changes in the discharge plan shall be entered into the record at least every two weeks, as a part of the team conference.

## PART VIII. REHABILITATION SERVICES TO PATIENTS.

§ 8.1. Rehabilitation services are medically prescribed treatment for improving or restoring functions which have been impaired by illness or injury or, where function has been permanently lost or reduced by illness or injury, to improve the individual's ability to perform those tasks required for independent functioning. The rules pertaining to them are:

### A. Rehabilitative nursing.

Rehabilitative nursing requires education, training, or experience that provides special knowledge and clinical skills to diagnose nursing needs and treat individuals who have health problems characterized by alteration in cognitive and functional ability.

Rehabilitative nursing are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan approved by a physician after any needed consultation with a registered nurse who is experienced in rehabilitation;
2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a registered nurse or licensed professional nurse, nursing assistant, or rehabilitation technician under the direct supervision of a registered nurse who is experienced in rehabilitation;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be

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necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.

## B. Physical therapy.

1. Physical therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine ;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a qualified physical therapist licensed by the Board of Medicine ;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

## C. Occupational therapy.

1. Occupational therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;

b. The services shall be a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Certification Board under the direct supervision of a qualified occupational therapist as defined above;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

## D. Speech-Language therapy.

1. Speech-Language therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall

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be reasonable.

## E. Cognitive rehabilitation.

1. Cognitive rehabilitation services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with a clinical psychologist experienced in working with the neurologically impaired and licensed by the Board of Medicine;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be rendered after a neuropsychological evaluation administered by a clinical psychologist or physician experienced in the administration of neuropsychological assessments and licensed by the Board of Medicine and in accordance with a plan of care based on the findings of the neuropsychological evaluation;

c. Cognitive rehabilitation therapy services may be provided by occupational therapists, speech-language pathologists, and psychologists who have experience in working with the neurologically impaired when provided under a plan recommended and coordinated by a physician or clinical psychologist licensed by the Board of Medicine;

d. The cognitive rehabilitation services shall be an integrated part of the total patient care plan and shall relate to information processing deficits which are a consequence of and related to a neurologic event;

e. The services include activities to improve a variety of cognitive functions such as orientation, attention/concentration, reasoning, memory, discrimination and behavior; and

f. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis.

## F. Psychology.

1. Psychology services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically

related to an active written treatment plan ordered by a physician;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified psychologist as required by state law;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

## G. Social work.

1. Social work services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified social worker as required by state law;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

## H. Recreational therapy.

1. Recreational therapy are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services are performed as an integrated part of a comprehensive rehabilitation plan of care by a recreation therapist certified with the National Council for Therapeutic Recreation at the professional level;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

## I. Prosthetic/orthotic services.

1. Prosthetic services furnished to a patient include prosthetic devices that replace all or part of an external body member, and services necessary to design the device, including measuring, fitting, and instructing the patient in its use;

2. Orthotic device services furnished to a patient include orthotic devices that support or align extremities to prevent or correct deformities, or to improve functioning, and services necessary to design the device, including measuring, fitting and instructing the patient in its use; and

3. Maxillofacial prosthetic and related dental services are those services that are specifically related to the improvement of oral function not to include routine oral and dental care.

4. The services shall be directly and specifically related to an active written treatment plan approved by a physician after consultation with a prosthodontist, orthotist, or a licensed, board eligible prosthodontist, certified in Maxillofacial prosthetics.

5. The services shall be provided with the expectation, based on the assessment made by physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and predictable period of time, or shall be necessary to establish an improved functional state of maintenance.

6. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical and dental practice; this includes the requirement that the amount, frequency, and duration of the services be reasonable.

## J. Durable medical equipment.

1. Durable medical equipment furnished the patient receiving approved covered rehabilitation services is covered when the equipment is necessary to carry out an approved plan of rehabilitation. A rehabilitation hospital or a rehabilitation unit of a hospital enrolled with Medicaid under a separate provider agreement for rehabilitative services may supply the durable medical equipment. The provision of the equipment is to be billed as an outpatient service. All durable medical equipment over \$1,000 shall be preauthorized by the department; however, all durable medical equipment is subject to justification of need. Durable medical equipment normally supplied by the hospital for inpatient care is not covered by this provision.

## PART IX. HOSPICE SERVICES.

### § 9.0. Hospice services.

#### § 9.1. Admission criteria.

*To be eligible for hospice coverage under Medicare or Medicaid, the recipient must be "terminally ill," defined as having a life expectancy of six months or less, and elect to receive hospice services rather than active treatment for the illness. Both the attending physician and the hospice medical director must certify the life expectancy.*

#### § 9.2. Utilization review.

*Authorization for hospice services requires an initial preauthorization by DMAS and physician certification of life expectancy. Utilization review will be conducted to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patients' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.*

*§ 9.3. Hospice services are a medically directed, interdisciplinary program of palliative services for terminally ill people and their families, emphasizing pain and symptom control. The rules pertaining to them are:*

*1. Nursing care. Nursing care must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.*

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2. *Medical social services.* Medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

3. *Physician services.* Physician services must be performed by a professional who is licensed to practice, who is acting within the scope of his license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.

4. *Counseling services.* Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and those caring for him to adjust to the individual's approaching death. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

5. *Short-term inpatient care.* Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

6. *Durable medical equipment and supplies.* Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness is covered. Medical supplies include those that are part of the written plan of care.

7. *Drugs and biologicals.* Only drugs which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

8. *Home health aide and homemaker services.* Home health aides providing services to hospice recipients must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness

of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

9. *Rehabilitation services.* Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

## **VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates - Other Types of Care.**

The policy and the method to be used in establishing payment rates for each type of care or service (other than inpatient hospitalization, skilled nursing and intermediate care facilities) listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs:

a. Reimbursement and payment criteria will be established which are designed to enlist participation of a sufficient number of providers of services in the program so that eligible persons can receive the medical care and services included in the Plan at least to the extent these are available to the general population.

b. Participation in the program will be limited to providers of services who accept, as payment in full, the state's payment plus any copayment required under the State Plan.

c. Payment for care or service will not exceed the amounts indicated to be reimbursed in accord with the policy and methods described in this Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.304(a). The state agency has continuing access to data identifying the maximum charges allowed; such data will be made available to the Secretary, HHS, upon request.

d. Payments for services listed below shall be on the basis of reasonable cost following the standards and principles applicable to the Title XVIII Program. The upper limit for reimbursement shall be no higher than payments for Medicare patients on a facility by facility basis in accordance with 42 CFR 447.321 and 42 CFR 447.325. In no instance, however, shall charges for beneficiaries of the program be in excess of charges for private patients receiving services from the provider. The professional component for emergency room physicians shall continue to be uncovered as a component of the payment to the facility.

Reasonable costs will be determined from the filing of a uniform cost report by participating providers. The cost

reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. The cost report will be judged complete when DMAS has all of the following:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);
2. The provider's trial balance showing adjusting journal entries;
3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of changes in financial position;
4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;
5. Depreciation schedule or summary;
6. Home office cost report, if applicable; and
7. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

The services that are cost reimbursed are:

- (1) Inpatient hospital services to persons over 65 years of age in tuberculosis and mental disease hospitals
- (2) Home health care services
- (3) Outpatient hospital services excluding laboratory
- (4) Rural health clinic services provided by rural health clinics or other federally qualified health centers defined as eligible to receive grants under the Public Health Services Act §§ 329, 330, and 340.
- (5) Rehabilitation agencies
- (6) Comprehensive outpatient rehabilitation facilities
- (7) Rehabilitation hospital outpatient services.

e. *Fee-for-service providers.*

(1) Payment for the following services shall be the lowest of: State agency fee schedule, actual charge (charge to the general public), or Medicare (Title XVIII) allowances:

- ~~(1)~~ (a) Physicians' services
- ~~(2)~~ (b) Dentists' services
- ~~(3)~~ (c) Mental health services including:  
Community mental health services  
Services of a licensed clinical psychologist  
Mental health services provided by a physician
- ~~(4)~~ (d) Podiatry
- ~~(5)~~ (e) Nurse-midwife services
- ~~(6)~~ (f) Durable medical equipment
- ~~(7)~~ (g) Local health services
- ~~(8)~~ (h) Laboratory services (Other than inpatient hospital)
- ~~(9)~~ (i) Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling)
- ~~(10)~~ (j) X-Ray services
- ~~(11)~~ (k) Optometry services
- ~~(12)~~ (l) Medical supplies and equipment.

(2) *Hospice services payment must be no lower than the amounts using the same methodology used under part A of Title XVIII, and adjusted to disregard offsets attributable to Medicare coinsurance amounts.*

f. Payment for pharmacy services shall be the lowest of items (1) through (5) (except that items (1) and (2) will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the brand cost is higher than the HCFA upper limit of VMAC cost) subject to the conditions, where applicable, set forth in items (6) and (7) below:

(1) The upper limit established by the Health Care Financing Administration (HCFA) for multiple source drugs which are included both on HCFA's list of multiple source drugs and on the Virginia Voluntary Formulary (VVF), unless specified otherwise by the agency;

(2) The Virginia Maximum Allowable Cost (VMAC) established by the agency plus a dispensing fee, if a legend drug, for multiple source drugs listed on the VVF;

(3) The estimated acquisition cost established by the agency for legend drugs except oral contraceptives;

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plus the dispensing fee established by the state agency, or

(4) A mark-up allowance determined by the agency for covered nonlegend drugs and oral contraceptives; or

(5) The provider's usual and customary charge to the public, as identified by the claim charge.

(6) Payment for pharmacy services will be as described above; however, payments for legend drugs (except oral contraceptives) will include the allowed cost of the drug plus only one dispensing fee per month for each specific drug. Payments will be reduced by the amount of the established copayment per prescription by noninstitutionalized clients with exceptions as provided in federal law and regulation.

(7) The Program recognizes the unit dose delivery system of dispensing drugs only for patients residing in skilled or intermediate care facilities. Reimbursements are based on the allowed payments described above plus the unit dose add on fee and an allowance for the cost of unit dose packaging established by the state agency. The maximum allowed drug cost for specific multiple source drugs will be the lesser of: either the VMAC based on the 60th percentile cost level identified by the state agency or HCFA's upper limits. All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency.

g. All reasonable measures will be taken to ascertain the legal liability of third parties to pay for authorized care and services provided to eligible recipients including those measures specified under 42 USC 1396(a)(25).

h. The single state agency will take whatever measures are necessary to assure appropriate audit of records whenever reimbursement is based on costs of providing care and services, or on a fee-for-service plus cost of materials.

i. Payment for transportation services shall be according to the following table:

TYPE OF SERVICE	PAYMENT METHODOLOGY
Taxi services	Rate set by the single state agency
Wheelchair van	Rate set by the single state agency
Nonemergency ambulance	Rate set by the single state agency
Emergency ambulance	Rate set by the single state agency
Volunteer drivers	Rate set by the single state agency

Air ambulance Rate set by the single state agency

Mass transit Rate charged to the public

Transportation agreements Rate set by the single state agency

Special Emergency transportation Rate set by the single state agency

j. Payments for Medicare coinsurance and deductibles for noninstitutional services shall not exceed the allowed charges determined by Medicare in accordance with 42 CFR 447.304(b) less the portion paid by Medicare, other third party payors, and recipient copayment requirements of this Plan.

k. Payment for eyeglasses shall be the actual cost of the frames and lenses not to exceed limits set by the single state agency, plus a dispensing fee not to exceed limits set by the single state agency.

l. Expanded prenatal care services to include patient education, homemaker, and nutritional services shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

m. Targeted case management for high-risk pregnant women and infants up to age 1 shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

n. Reimbursement for all other nonenrolled institutional and noninstitutional providers.

(1) All other nonenrolled providers shall be reimbursed the lesser of the charges submitted, the DMAS cost to charge ratio, or the Medicare limits for the services provided.

(2) Outpatient hospitals that are not enrolled as providers with the Department of Medical Assistance Services (DMAS) which submit claims shall be paid based on the DMAS average reimbursable outpatient cost-to-charge ratio, updated annually, for enrolled outpatient hospitals less five percent. The five percent is for the cost of the additional manual processing of the claims. Outpatient hospitals that are nonenrolled shall submit claims on DMAS invoices.

(3) Nonenrolled providers of noninstitutional services shall be paid on the same basis as enrolled in-state providers of noninstitutional services. Nonenrolled providers of physician, dental, podiatry, optometry, and clinical psychology services, etc., shall be reimbursed the lesser of the charges submitted, or the DMAS rates for the services.

(4) All nonenrolled noninstitutional providers shall be reviewed every two years for the number of

Medicaid recipients they have served. Those providers who have had no claims submitted in the past twelve months shall be declared inactive.

(5) Nothing in this regulation is intended to preclude DMAS from reimbursing for special services, such as rehabilitation, ventilator, and transplantation, on an exception basis and reimbursing for these services on an individually, negotiated rate basis.

#### o. Refund of overpayments.

(1) Providers reimbursed on the basis of a fee plus cost of materials.

(a) When DMAS determines an overpayment has been made to a provider, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

(b) If the provider cannot refund the total amount of the overpayment within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services (the "director") may approve a repayment schedule of up to 36 months.

A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program, the outstanding balance shall become immediately due and payable.

When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

(c) In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written

notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

(d) Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

The director's determination shall be deemed to be final on (i) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (ii) the issue date of any administrative decision issued by DMAS after an informal factfinding conference, if the provider does not file an appeal, or (iii) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

(2) Providers reimbursed on the basis of reasonable costs.

(a) When the provider files a cost report indicating that an overpayment has occurred, full refund shall be remitted with the cost report. In cases where DMAS discovers an overpayment during desk review, field audit, or final settlement, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

(b) If the provider has been overpaid for a particular fiscal year and has been underpaid for another fiscal year, the underpayment shall be offset against the overpayment. So long as the provider has an overpayment balance, any underpayments discovered by subsequent review or audit shall also be used to reduce the remaining amount of the overpayment.

(c) If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost report indicating that an overpayment has occurred, the provider shall request an extended repayment

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schedule at the time of filing, or (ii) within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services (the "director") may approve a repayment schedule of up to 36 months.

A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.

When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

(d) In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

(e) Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

The director's determination shall be deemed to be final on (i) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or (ii) the issue date of any notice of

overpayment, issued by DMAS, if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by DMAS after an informal factfinding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

## VR 460-04-8.8. Regulations for Hospice Services.

### § 1. Scope.

*A. Medicaid covers hospice services as defined in § 2 A provided by facilities or agencies certified as hospice providers through Medicare and which have a provider agreement with the Department of Medical Assistance Services.*

*B. Hospice services may be provided in a variety of settings including the terminally ill individual's home, a freestanding hospice, hospital, or nursing facility; however, reimbursement for hospice services will only be made to the certified hospice provider.*

### § 2. Covered hospice services.

*A. "Hospice" means a medically directed, interdisciplinary program of palliative services for terminally ill people and their families, emphasizing pain and symptom control provided by a team of professionals including physicians, nurses, counselors, social workers, therapists, aides and volunteers. Hospice is primarily a concept of care, rather than a specific place, with the majority of hospice services being delivered in the home with inpatient care available as needed.*

*B. "Terminally ill" means an individual has a medical prognosis that his or her life expectancy is six months or less. This prognosis must be certified by written statements signed by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician.*

*C. As required under Medicare and applicable to Medicaid, the hospice itself must provide the "core" services applicable for the terminal illness which are nursing care, physician services, social work, and counseling (bereavement, dietary, and spiritual). However, the hospice may use contracted staff if necessary to supplement hospice employees in order to meet the needs of patients during periods of peak patient loads or under extraordinary circumstances. If contracting is used, the hospice shall maintain professional, financial, and*

administrative responsibility for the services.

Other services applicable to the terminal illness that must be available but are not considered "core" services are drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupational, physical and speech therapies. These other services may be arranged, such as by contractual agreement, or provided directly by the hospice.

D. As described for Medicare and applicable to Medicaid, hospice services shall include the following four categories of daily care: routine home care, continuous home care, inpatient respite care, and general inpatient care.

### § 3. Admission criteria for covered services.

A. To be eligible for hospice care under Medicaid, an individual must be certified as terminally ill. An individual is considered to be terminally ill if he has a medical prognosis that his life expectancy is six months or less. In addition, the individual must have knowledge of the illness and life expectancy and elect to receive hospice services rather than active treatment for the illness. Both the attending physician and the hospice medical director must certify the life expectancy.

B. The hospice must obtain the certification that an individual is terminally ill in accordance with the following procedures:

1. For the first 90-day period of hospice coverage, the hospice must obtain, within two calendar days after the period begins, a written certification statement signed by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician. For the initial 90-day period, if the hospice cannot obtain written certifications within two calendar days, it must obtain oral certifications within two calendar days, and written certifications no later than eight calendar days after the period begins.

2. For any subsequent 90-day or 30-day period or a subsequent extension period during the individual's lifetime, the hospice must obtain, no later than two calendar days after the beginning of that period, a written certification statement prepared by the medical director of the hospice or the physician member of the hospice's interdisciplinary group. The certification must include the statement that the individual's medical prognosis is that his life expectancy is six months or less and the signature or signatures of the physician or physicians. The hospice must maintain the certification statements.

3. An election to receive hospice care shall be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the individual

remains in the care of a hospice and does not revoke the election. An election period means one of three periods, plus a subsequent extension period during the individual's lifetime, for which an individual may elect to receive coverage of hospice care. The periods consist of two 90-day periods, one 30-day period, and a subsequent extension period during the individual's lifetime. An election to receive hospice care may be made by an individual's representative who is acting pursuant to state law. An individual or representative may designate an effective date for the election period that begins with the first day of hospice care or any subsequent day of hospice care but may not designate an effective date that is earlier than the date that the election is made.

For purposes of the Medicaid hospice benefit, a nursing facility may be considered the residence of a recipient. An addition to hospice reimbursement is made in this situation to take the room and board provided by the facility into account. The hospice shall reimburse the nursing facility for these services.

4. The election statement must include (i) identification of the hospice that will provide care to the individual; (ii) the individual's or representative's acknowledgement that he has been given a full understanding of the palliative rather than curative nature of hospice care as it relates to the individual's terminal illness; (iii) acknowledgement that certain Medicaid services are waived by the election; (iv) the effective date of the election, and (v) the signature of the individual or representative.

### § 4. Authorization for services.

A. Hospice services shall be authorized by DMAS and certification shall be made by the physician that the individual is terminally ill and that hospice services are reasonable and necessary for the palliation or management of the terminal illness and related conditions. Within fourteen days of the date of the initial physician certification, the hospice must request authorization from DMAS for accepting the terminally ill individual. This request shall include a description of the individual's diagnoses and a physician's certification that the individual meets criteria for hospice care.

B. DMAS shall make a determination as to the appropriateness of Medicaid payment for the individual's first 90 days of care. Subsequent periods of care shall be requested in writing and approved by the department. Periods of hospice care not authorized by DMAS shall not be approved for payment. The initial date of authorization of services shall not be made retroactive prior to the date of the request for hospice services.

### § 5. Documentation requirements.

A. Documentation of hospice services shall, at a minimum:

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1. Describe the clinical signs and symptoms of the patient's terminal illness;

2. Document an accurate and complete chronological picture of the patient's clinical course and treatments;

3. Document that a multidisciplinary plan of care specifically designed for the patient has been developed;

4. Document all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response, and identify who provided care (include full name and title);

5. Document changes in each patient's condition; and

6. Identify the category of care as described in Section 6.A.

B. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

## § 6. Categories of care.

A. As described for Medicare and applicable to Medicaid, hospice services entail the following four categories of daily care:

1. Routine home care is at-home care that is not continuous.

2. Continuous home care consists of at-home care that is predominantly nursing care and is provided as short-term crisis care. A registered nurse or licensed practical nurse must provide care for more than half of the period of care. Home health aide or homemaker services may be provided in addition to nursing care. A minimum of eight hours of care per day must be provided to qualify as continuous home care.

3. Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary caregiver(s) providing at-home care for the recipient. No more than five consecutive days of respite care will be allowed.

4. General inpatient care may be provided in an approved freestanding hospice, hospital, or nursing facility. This care is usually for pain control or acute or chronic symptom management which cannot be successfully treated in another setting.

B. For all services pertaining to terminal illness, the hospice has the responsibility for providing or arranging the services. Utilization review shall be performed to determine if services were provided by the appropriate

provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate.

## § 7. Hospice services to terminally ill patients.

A. As required under Medicare and applicable to Medicaid, the hospice itself must provide all of the "core" services applicable for the terminal illness which are nursing care, physician services, social work, and counseling (bereavement, dietary, and spiritual).

The "core" services must be provided routinely and directly by hospice employees. Supplemental services may be contracted for to meet unusual staffing needs that cannot be anticipated and that occur so infrequently that it would not be practical to hire additional staff to fill these needs. Hospices may also contract to obtain physician specialty services. If contracting is used for any services, the hospice must maintain professional, financial and administrative responsibility for the services and must assure that all staff meet the regulatory qualification requirements.

Other services applicable for the terminal illness that must be available but are not considered "core" services are drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupational, physical and speech therapies.

These other services may be arranged, such as by contractual agreement, or provided directly by the hospice.

B. To be covered, a certification that the individual is terminally ill must have been completed and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. The individual must elect hospice care and a multidisciplinary plan of care must be established before services are provided. To be covered, services must be consistent with the plan of care designed by a physician after any needed consultation with other hospice team members.

C. All services must be performed by appropriately qualified personnel, but it is the nature of the service, rather than the qualification of the person who provides it, that determines the coverage category of the service. The following services are covered hospice services:

1. Nursing care. Nursing care must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

2. Home health aide and homemaker services. Home health aides providing services to hospice recipients must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aides may

provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

3. *Medical social services.* Medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

4. *Physician services.* Physician services must be performed by a professional who is legally authorized to practice, who is acting within the scope of his or her license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.

*Attending physician means a physician who is a doctor of medicine or osteopathy and is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.*

5. *Counseling services.* Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and those caring for him or her to adjust to the individual's approaching death.

*Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. "Family" includes family members or other persons caring for the individual at home. Bereavement counseling is a required hospice service, but it is not reimbursable.*

6. *Short-term inpatient care.* Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings.

*Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home. Respite care means short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary caregiver or caregivers providing at-home care for the recipient. No more than 5 consecutive days will be allowed.*

*Hospice patients are exempted from the preadmission screening requirements. However, the above criteria must be met for inpatient hospital stays.*

7. *Durable medical equipment and supplies.* Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness are covered. Medical supplies include those supplies that are part of the written plan of care.

8. *Drugs and biologicals.* Only drugs used which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

9. *Rehabilitation services.* Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

a. *Occupational therapy services shall be those services furnished a patient which meet all of the following conditions:*

(1) *The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;*

(2) *The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Board under the direct supervision of an occupational therapist as defined above;*

(3) *The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.*

b. *Physical therapy services shall be those furnished*

# Proposed Regulations

a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a physical therapist licensed by the Board of Medicine; and

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

c. Speech-language therapy services shall be those services furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology; and

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

## BOARD OF NURSING HOME ADMINISTRATORS

**Title of Regulation:** VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.

**Statutory Authority:** §§ 54.1-2400 and 54.1-3101 of the Code of Virginia.

**Public Hearing Date:** N/A – Written comments may be submitted until May 13, 1991.

(See Calendar of Events section for additional information)

## Summary:

The final regulations of the Board of Nursing Home Administrators which were effective August 15, 1990, are proposed for modification. The proposed regulations incorporate emergency regulations on endorsement that were effective December 5, 1990, and revise the continuing education and administrator-in-training sections for ease of compliance and clarity.

VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.

## PART I. GENERAL PROVISIONS.

### Article 1. Definitions.

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

“Applicant” means a person applying to sit for an examination or applying for licensure by the board.

“Administrator-in-training program (A.I.T.)” means the apprenticeship program which consists of 2,080 hours of continuous training in nursing home administration in a licensed nursing home.

“Administrator-of-record” means the licensed nursing home administrator designated in charge of the general administration of the facility and identified as such to the facility's licensing agency.

“Administrator-in-training applicant” means a person applying for approval to enter the administrator-in-training (A.I.T.) program.

“Continuing education” means the educational activities which serve to maintain, develop, or increase the knowledge, skills, and performance generally recognized as relevant to the nursing home administrator's professional responsibilities.

“Department” means the Department of Health Professions.

“Direct supervision” means directing the activities and course of a subordinate's performance.

“Executive director” means the board administrator for the Board of Nursing Home Administrators.

“Full-time employment” means employment of at least 37 1/2 hours per week.

“N.A.B.” means the National Association of Boards of Examiners for Nursing Home Administrators.

# Proposed Regulations

"National examination" means a test used by the board to determine competency of candidates for licensure.

"Nursing home administrator" means any individual licensed by the Board of Nursing Home Administrators.

"Nursing home" means any public or private facility required to be licensed as a nursing home under the provisions of Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 of the Code of Virginia and the regulations of the Board of Health.

"Preceptor" means a nursing home administrator currently licensed in Virginia approved by the board to conduct an administrator-in-training (A.I.T.) program.

"State examination" means a test used by the Board of Nursing Home Administrators to determine competency of a candidate relevant to regulations and laws in Virginia for purposes of licensure.

## Article 2. Legal Base.

§ 1.2. The following legal base describes the authority of the Board of Nursing Home Administrators to prescribe regulations governing nursing home administrators in the Commonwealth of Virginia:

Title 54.1:

Chapter 1 (§ 54.1-100 through 54.1-114);

Chapter 24 (§ 54.1-2400 through 54.1-2403);

Chapter 25 (§ 54.1-2500 through 54.1-2510); and

Chapter 31 (§ 54.1-3100 through 54.1-3103)

of the Code of Virginia.

## Article 3. Purpose.

§ 1.3. These regulations establish the standards for qualifications, training, examination, licensure, and practice of persons as administrators-in-training; nursing home administrators; and preceptors in the Commonwealth of Virginia.

## Article 4. Applicability.

§ 1.4. Individuals subject to these regulations are (i) nursing home administrators, (ii) applicants, (iii) administrators-in-training, and (iv) preceptors.

## Article 5. Public Participation Guidelines.

§ 1.5. Mailing list.

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

1. Notice of intent to promulgate regulations;
2. Notice of public hearings or informational proceedings, the subject of which is proposed or existing regulations; and
3. Final regulations when adopted.

§ 1.6. Additions and deletions to mailing list.

A. Any person wishing to be placed on the mailing list shall have his name added by writing to the board.

B. The board may, in its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations.

C. Those on the list may be periodically requested to indicate their desire to continue to receive documents or to be deleted from the list.

D. When mail is returned as undeliverable, persons shall be deleted from the list.

§ 1.7. Notice of intent.

A. At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:7.1 of the Code of Virginia, the board shall publish a notice of intent.

B. The notice shall contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any persons to provide written comment on the subject matter.

C. The notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

§ 1.8. Informational proceedings or public hearings for existing rules.

A. At least once each biennium, the board shall conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Notice of such proceeding shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

C. The proceeding may be held separately or in

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conjunction with other informational proceedings.

## § 1.9. Petition for rulemaking.

A. Any person may petition the board to adopt, amend, or delete any regulation.

B. Any petition received within 10 days prior to a board meeting shall appear on the agenda of that meeting of the board.

C. The board shall have sole authority to dispose of the petition.

## § 1.10. Notice of formulation and adoption.

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

## § 1.11. Advisory committees.

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

## PART II. OPERATIONAL RESPONSIBILITIES.

### Article 1. Posting of License and Licensure.

§ 2.1. An individual shall have a valid nursing home administrator's license issued by the Board of Nursing Home Administrators in order to engage in the general administration of a nursing home.

§ 2.2. Each licensee shall post his license in a main entrance or place conspicuous to the public in the facility in which the licensee is administrator-of-record.

### Article 2. Records.

## § 2.3. Accuracy of information.

A. All changes of mailing address or name shall be furnished to the board within five days after the change occurs.

B. All notices required by law and by these regulations to be mailed by the board to any registrant or licensee shall be validly given when mailed to the latest address on file with the board and shall not relieve the licensee, trainee, or preceptor of the obligation to comply.

## PART III. FEES.

### Article 1. Initial Fees.

§ 3.1. The applicant shall submit ALL fees below which apply:

1. Application for A.I.T. program ..... \$150
2. Preceptor application fee ..... \$100
3. Application fee for license to practice nursing home administration ..... \$125
4. Fee to sit for state examination ..... \$100
5. Fee to sit for national examination ..... \$150
6. Verification of licensure requests from other states

### Article 2. Renewal Fees.

§ 3.2. The following annual fees shall be paid as applicable for license renewal:

Nursing home administrator license renewal payable by March 31 ..... \$100

EXCEPTION: Nursing home administrators licensed prior to July 1, 1990, shall renew their current licenses on December 31, 1991, and annually on March 31 thereafter.

Preceptor renewal payable by March 31 ..... \$ 50

EXCEPTION: Preceptors certified prior to July 1, 1990, shall renew current preceptorship on December 31, 1991, and annually on March 31 thereafter.

### Article 3. Reinstatement Fees.

§ 3.3. The following reinstatement fees shall be paid in addition to annual renewal fees for reinstatement of license or preceptorship up to three years following expiration.

Nursing home administrator reinstatement ..... \$200

Preceptor reinstatement ..... \$ 50

### Article 4. Other Fees.

## § 3.4. Duplicates.

Duplicate licenses or wall certificates shall be issued by the board after the licensee submits to the board a signed affidavit that a document has been lost, destroyed, or the applicant has had a name change.

# Proposed Regulations

Duplicate license ..... \$ 25

Duplicate wall certificates ..... \$ 50

## § 3.5. Other.

There shall be a fee of \$25 for returned checks.

Fees shall not be refunded once submitted.

### PART IV. RENEWALS.

#### Article 1. Expiration Dates.

§ 4.1. The following shall expire on March 31 of each calendar year:

1. Nursing home administrator license; and
2. Preceptor approval.

§ 4.2. A licensee who fails to renew his license by the expiration date shall have an invalid license.

§ 4.3. A preceptor who fails to renew his approval by the expiration date shall not serve as a preceptor.

#### Article 2. Renewal and Reinstatement.

§ 4.4. A person who desires to renew his license or preceptor approval for the next year shall, not later than the expiration date:

1. Return the renewal notice;
2. Submit the applicable fee(s) prescribed in § 3.2;
3. Notify the board of any changes in name and address; and
4. Submit the continuing education documentation prescribed in §§ 8.1 through 8.10 of these regulations.

§ 4.5. A licensee or preceptor may reinstate his license or *preceptor* approval within three years of its expiration date through the following process:

1. Apply for reinstatement (*licensee and preceptor*);
2. Submit the applicable fee prescribed in § 3.3 (*licensee and preceptor*);
3. Present evidence of attendance at 20 classroom hours per year of continuing education for each year of expiration OR take and pass the national examination (*licensee only*); and
4. Take and pass the state examination (*licensee only*)

§ 4.6. When a license or approval as a preceptor is not reinstated within three years of its expiration date, an applicant for licensure or approval as a preceptor shall:

1. Reapply as a new candidate for licensure or *preceptor* approval;
2. Take and pass the national examination (*licensee only*);
3. Take and pass the state examination (*licensee only*); and
4. Meet all qualifications of the regulations at the time of application.

### PART V. REQUIREMENTS FOR LICENSURE.

#### Article 1. Qualifications.

§ 5.1. One of the following sets of qualifications is required for licensure:

1. Degree and practicum experience.
  - a. Applicant holds a baccalaureate or higher degree in nursing home administration or a health administration field from an accredited college or university; and
  - b. Applicant has completed a 400-hour practicum experience in nursing home administration under the supervision of a licensed nursing home administrator; and
  - c. Applicant has received a passing grade on the state examination and the national examination.

OR

2. Administrator-in-training program.
  - a. Applicant has successfully completed 2,080 hours, or the approved equivalent thereof (see § 6.3), of continuous training in an A.I.T. program; and
  - b. Applicant has received a passing grade on the state examination and the national examination.

OR

3. *Endorsement.* The board may issued a Virginia license to any person by endorsement when the person:

- a. Holds a current unencumbered license from any state or the District of Columbia;

# Proposed Regulations

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*b. Has practiced nursing home administration for one year or has met the requirements of the board or has equivalent qualifications acceptable to the board and has provided sufficient written evidence of those qualifications at the time of application for licensure; and*

*c. Has successfully completed the state examination.*

## Article 2. Application Process.

§ 5.2. An individual seeking licensure as a nursing home administrator, approval as a preceptor, or seeking examination/reexamination shall submit simultaneously:

1. Completed and signed application;
2. Additional documentation as may be required by the board to determine eligibility of the applicant; and
3. The applicable fee(s) prescribed in § 3.1.

§ 5.3. All required parts of the application package shall be submitted at the same time. An incomplete package shall be returned.

EXCEPTION: Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board.

National examination scores will also be accepted from the examining authority.

§ 5.4. An applicant for examination shall submit the application package not less than 45 days prior to an examination date.

§ 5.5. Waiver of time limits.

The board may, for good cause, waive the time requirement in § 5.4 for the filing of any application. The burden of proof which demonstrates good cause rests with the applicant.

## Article 3. General Examination Requirements.

§ 5.6. Failure to appear.

The applicant shall forfeit the examination fee if unable to sit for the examination for any reason.

§ 5.7. Reexamination.

Any person failing an examination may reapply for a subsequent examination, and shall pay the examination fee prescribed in § 3.1 with each application filed.

§ 5.8. Scheduling early examinations.

A. An applicant may request to take the scheduled examination most closely preceding the expected completion of the required formal education requirement or the A.I.T. program.

B. All such requests shall be in writing.

C. Approval of the written request by the board shall be required prior to submitting the application and fee for examination (see §§ 5.2, 5.4 and 3.1.)

D. Application for licensure shall be submitted after the applicant completes the qualifications for licensure.

## PART VI. ADMINISTRATOR-IN-TRAINING PROGRAM.

### Article 1. Trainee Requirements and Application Process.

§ 6.1. To be approved as an administrator-in-training, a person shall:

1. Have received a passing grade on a total of 60 semester hours of education from an accredited college or university;
2. Obtain a preceptor currently approved by the board to provide training;
3. Submit the fee prescribed in subdivision 1 of § 3.1;
4. Submit the completed and signed application; and
5. Submit additional documentation as may be required by the board to determine eligibility of the applicant.

### Article 2. Training Program.

§ 6.2. The A.I.T. program shall consist of 2,080 hours or its approved equivalent (see § 6.3) of continuous training to be completed within 24 months. Extension may be granted by the board on an individual case basis.

§ 6.3. An A.I.T. applicant with prior health care work experience may request approval to receive a maximum 1,000 hours of credit toward the total 2,080 hours as follows:

1. Applicant shall have been employed full-time for four of the past five consecutive years immediately prior to application as an assistant administrator or director of nursing.
2. The employment described above shall have been in a facility as prescribed in § 6.4.
3. Applicants with experience as a hospital administrator shall have been employed full-time for

# Proposed Regulations

three of the past five years immediately prior to application as a hospital administrator-of-record or an assistant hospital administrator in a hospital setting having responsibilities in all of the following areas:

- a. Regulatory;
- b. Fiscal;
- c. Supervisory;
- d. Personnel; and
- e. Management.

## § 6.4. Training shall be conducted only in:

1. A nursing home, licensed by the Department of Health, Commonwealth of Virginia; or
2. An institution licensed by the Virginia Mental Health, Mental Retardation and Substance Abuse Services Board in which long-term care is provided; or
3. A certified nursing home owned or operated by an agency of any city, county, or the Commonwealth or of the United States government; or
4. A certified nursing home unit located in and operated by a general or special hospital licensed under procedures of Rules and Regulations for Licensure of General and Special Hospitals of the Virginia Department of Health.

§ 6.5. Training shall be under the direct supervision of a certified preceptor (see §§ 6.8 and 6.9).

§ 6.6. Not more than two A.I.T.'s may be supervised per approved preceptor at any time.

§ 6.7. An A.I.T. shall be required to serve weekday, evening, and weekend shifts to receive training in all areas of nursing home operation.

### Article 3. Qualifications and Application Process to Train: Preceptors.

§ 6.8. An individual shall be approved by the board prior to serving as a preceptor.

§ 6.9. The board shall approve only preceptors to give training who:

1. Have a full, unrestricted, and current Virginia nursing home administrator license;
2. Are employed full-time in the facility where training occurs (see § 6.4);
3. Have served for a minimum of two of the past

three years immediately prior to the preceptorship as a full-time administrator in accordance with § 6.4 or as an approved preceptor in another state;

4. Submitted the fee prescribed in subdivision 2 of § 3.1;
5. Submitted the completed and signed applications; and
6. Submitted additional documentation as may be required by the board to determine eligibility of the applicant.

### Article 4. Administration of A.I.T. program.

§ 6.10. An approved preceptor shall comply with the curriculum for the A.I.T. program developed by the board and shall provide supervision and training as prescribed by the curriculum and these regulations.

§ 6.11. § 6.10. Prior to the beginning of the A.I.T. program, the preceptor shall develop and submit to the board for approval, a training plan including goals and objectives geared to the specific needs of the trainee. These shall be used to assist the A.I.T. in measuring progress in the program, to include the Core of Knowledge as defined by Title XVIII and Title XIX of the Social Security Act and the Domains of Practice as appended to these regulations. The plan developed by the board or an alternate plan geared to the specific needs of the trainee may be used.

§ 6.12. The list of goals shall be designed to include the Core of Knowledge described in Appendix I and the Domains of Practice in Appendix II.

§ 6.13. § 6.11. The preceptor shall maintain progress reports on forms prescribed by the board for each month of training.

§ 6.14. § 6.12. The A.I.T.'s certificate of completion plus the accumulated original monthly reports shall be submitted by the preceptor to the board within 30 days following the completion of the A.I.T. program.

§ 6.15. § 6.13. If the preceptor fails to submit the reports required in § 6.14 6.12, the A.I.T. shall forfeit all credit for training. The board may waive such forfeiture.

§ 6.16. § 6.14. If the A.I.T. program is terminated prior to completion, the trainee and the preceptor shall submit the following information to the board within five working days:

#### 1. Preceptor.

- a. All required monthly progress reports prescribed in § 6.13 § 6.11; and

# Proposed Regulations

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b. Written explanation of the causes of program termination.

2. A.I.T. The A.I.T. shall submit written explanation of the causes of program termination.

~~§ 6-17.~~ § 6.15. If the program is interrupted because the approved preceptor is unable to serve, the A.I.T. shall notify the board within five working days and shall obtain a new preceptor.

~~§ 6-18.~~ § 6.16. Credit for training shall resume when a new preceptor is obtained and approved by the board.

~~§ 6-19.~~ § 6.17. If an alternate training plan or set of goals is developed, it shall be submitted to the board for approval before A.I.T. resumes training.

## PART VII. REFUSAL, SUSPENSION, REVOCATION, AND DISCIPLINARY ACTION.

### Article 1. Unprofessional Conduct.

§ 7.1. The board may refuse to admit a candidate to any examination; refuse to issue or renew a license or approval to any applicant; and may suspend for a stated period of time or indefinitely, or revoke any license or approval, or reprimand any person, or place his license on probation with such terms and conditions and for such time as it may designate, or impose a monetary penalty for any of the following causes:

1. Conducting the practice of nursing home administration in such a manner as to constitute a danger to the health, safety, and well-being of the residents, staff, or public;
2. Demonstrated inability or unwillingness to maintain a facility in accordance with the Virginia Department of Health Rules and Regulations for the Licensure of Nursing Homes in Virginia;
3. Failure to comply with federal, state, or local laws and regulations governing the operation of a nursing home;
4. Conviction of a felony related to the practice for which the license was granted;
5. Failure to comply with any regulations of the board;
6. Failure to comply with continuing education requirements;
7. Inability to practice with skill or safety because of physical, mental, or emotional illness, or substance abuse.

8. Failure to comply with board's regulations on preceptorship while serving as a preceptor.

## PART VIII. CONTINUING EDUCATION.

§ 8.1. As a prerequisite to renewal of a license or reinstatement of a license, each licensee shall be required to take continuing education related to health care administration.

§ 8.2. Continuing education shall consist of training programs, seminars, and workshops directly related to the following:

1. Nursing home administration;
2. Personnel;
3. Long term care;
4. Health care;
5. Safety;
6. Finance;
7. Resident care;
8. Physical resource management;
9. Laws, regulatory codes, and governing boards;
10. Courses to gain knowledge in departmental areas;
11. Core of Knowledge in Appendix I; and
12. Domains of Practice in Appendix II.

§ 8.3. Effective January 1, 1991, an administrator who holds a license on January 1 of any calendar year shall attend 20 classroom hours per calendar year of continuing education.

**EXCEPTION:** An administrator who held a license between January 1, 1990, and May 31, 1990, shall be required to complete 15 classroom hours of continuing education for 1990 only.

*EXCEPTION: An administrator who was licensed between June 1, 1990, and December 31, 1990, shall not be required to submit any evidence of continuing education during 1990 only.*

§ 8.4. Effective January 1, 1991, an administrator initially licensed between April 1 and August 1 of any calendar year shall attend 10 classroom hours of continuing education for the calendar year in which initial licensure took place.

§ 8.5. Effective January 1, 1991, an administrator initially

licensed between August 1 and December 31 shall not be required to attend continuing education for the calendar year in which initial licensure took place.

**EXCEPTION:** An administrator who was licensed between June 1, 1990, and December 31, 1990, shall not be required to submit any evidence of continuing education during 1990 only.

§ 8.6. Continuing education hours shall be submitted to the board no later than January 31 of the calendar year following the December 31 deadline requirement.

§ 8.7. Administrators shall submit evidence of having obtained continuing education credit by:

1. Forwarding copies of certificates or transcripts issued by the course provider; and
2. Forwarding an affidavit of completion signed by the administrator on forms provided by the board.

§ 8.8. Only classroom hours shall be accepted.

§ 8.9. Credit shall only be given for 30-minute increments.

§ 8.10. The continuing education hours shall be current to the calendar year in which they were required.

## APPENDIX I CORE OF KNOWLEDGE.

The Core of Knowledge referred to in this program consists of the disciplines under the federal guidelines:

A. Applicable standards of environmental health and safety.

1. Knowledge of local, state and federal regulations applicable to nursing homes.
2. Resources: Local and state health departments, local state regulatory agencies, and federal regulatory agencies.

B. Local and state health and safety regulations.

C. General administration.

D. Psychology of patient care.

Resources: Staff, patient, and advisory physicians; social worker and patient's social history; principles and techniques of long term care nursing (director of nursing, nursing supervisors).

E. Principles of medical care.

1. Resources: Medical director, staff, patient, and advisory physicians/medical colleges, especially those offering degree programs in health care administration

or long-term health care.

F. Personal and social care.

G. Therapeutics and supportive care and services in long term care.

1. Resources: Dietary, physical therapy, occupational therapy, clinic, social services, volunteers, family, and pharmacist.

H. Departmental organization and management administrator, advisor physicians, director of nursing, food service manager, laundry and housekeeping supervisor, and maintenance supervisor.

I. Community Interrelationships.

1. Hospitals
2. Hospice programs
3. Other nursing homes
4. Home for adults
5. Retirement or life care communities
6. Home health care
7. Health Department
8. Social service agencies
9. Department for the Aging
10. Area Agencies on Aging
11. Clinics
12. Physicians
13. Medical societies
14. Regulatory agencies
15. Long term care professional associations
16. Advocates for the aged
17. Ombudsman
18. Volunteers
19. Educators
20. Schools
21. Religious communities

## APPENDIX II.

# Proposed Regulations

DOMAINS OF PRACTICE.		50.10	Building & Grounds Maintenance
CODE	SUBJECT CATEGORY	50.20	Environmental Services
10.00	PATIENT CARE	50.30	Safety Procedures and Programs
10.10	Nursing Services	50.40	Fire and Disaster Plans
10.20	Social Services	60.00	LAWS, REGULATORY CODES & GOVERNING BOARDS
10.30	Food Services	60.10	Rules and Regulations
10.40	Physician Services	60.20	Governing Boards
10.50	Social and Therapeutic Recreational Activities		
10.60	Medical Records		
10.70	Pharmaceutical Services		
10.80	Rehabilitation Services		
20.00	PERSONNEL MANAGEMENT		
20.10	Maintaining positive atmosphere		
20.20	Evaluation Procedures		
20.30	Recruitment of Staff		
20.40	Interviewing Candidates		
20.50	Selecting Future Candidates		
20.60	Selecting Future Employees		
20.70	Providing Staff Development & Training Activities		
20.80	Health and Safety		
30.00	FINANCIAL MANAGEMENT		
30.10	Budgeting		
30.20	Financial Planning		
30.30	Asset Management		
30.40	Accounting		
40.00	MARKETING AND PUBLIC RELATIONS		
40.10	Public Relations Activities		
40.20	Marketing Program		
50.00	PHYSICAL RESOURCE MANAGEMENT		

**NOTICE:** The forms used in administering the Regulations of the Board of Nursing Home Administrators are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Application for Administrator-in-Training (DHP-14-0102)  
 Application for Preceptor Certification (DHP-14-0104)  
 Application for Nursing Home Administrators (DHP-14-0101)  
 Endorsement Certification Form (DHP-14-0103)  
 Application for Administrator-in-Training Program Forms

## BOARD OF OPTOMETRY

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

**Statutory Authority:** § 54.1-2400 and Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1 of the Code of Virginia.

**Public Hearing Date:** July 18, 1991 - 10 a.m.  
 (See Calendar of Events section for additional information)

### Summary:

*The proposed regulations of the Board of Optometry state the requirements for licensure of optometrists, disciplinary provisions, fees applicable to reinstatement and clarification of continuing education requirements. The proposed amendments are the result of a revision process which included the biennial review of all existing regulations required by law and by the board's Public Participation Guidelines found in § 1.2 D of the regulations. The proposed amendments are for purpose of fee changes, clarification of licensing, examinations, renewal, and reinstatement procedures, clarification of unprofessional conduct, and continuing education requirements.*

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

## PART I. GENERAL PROVISIONS.

### § 1.1. Public participation guidelines.

#### A. Mailing list.

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

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

#### B. Being placed on list: deletion.

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

#### C. Notice of intent.

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

#### D. Information proceedings or public hearings for existing rules.

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

other informational proceedings.

#### E. Petition for rulemaking.

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

#### F. Notice of formulation and adoption.

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

#### G. Advisory committees.

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

### § 1.2. Applicants.

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

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

B. If any applicant withdraws from the examination at least 30 days prior to the examination date, all but the prescribed administrative fee will be refunded. If the applicant withdraws in 30 days or fewer prior to the examination date, only the licensure fee will be refunded. If an applicant is unsuccessful in passing the examination, the applicant shall receive upon request a refund of the licensure fee.

### § 1.3. Fees.

The following fees are required:

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Examination fee .....	\$150
Initial Licensure Fee	
First Examination ( <i>January</i> ) after Renewal .....	\$150
Second Examination ( <i>July</i> ) after Renewal .....	\$75
Examination fee, certification to use diagnostic pharmaceutical agents .....	\$100
Licensure fee (renewed annually) .....	\$150
Late fee .....	\$100
Administrative Fee .....	\$25
Professional Designation Application Fee .....	\$200
<i>Fictitious Name</i>	
Biennial Professional Designation Registration Fee .....	\$100/location
<i>Annual Fictitious Name Registration Fee (due 10/31) .....</i>	<i>\$50/location</i>
Reinstatement fee .....	\$400 \$250

## PART II. EXAMINATIONS.

### § 2.1. Examinations.

A. For the purpose of § 54.1-3211 of the Code of Virginia, the board adopts all parts of the examination of the National Board of Examiners in Optometry as its written examination for licensure. ~~In addition, upon receiving a passing score on all parts of the examination of the National Board of Examiners in Optometry, an applicant shall successfully complete a practical examination administered by the Virginia Board of Optometry.~~

B. ~~A candidate may take or retake the practical examination upon payment of the prescribed fee. A candidate failing the practical examination shall retake the entire examination, except that a candidate who fails one section may retake the failed portion at the next administration of the examination only, upon payment of the examination fee. Otherwise the full examination shall be retaken. In addition, upon receiving a passing score on all parts of the examination of the National Board of Examiners in Optometry, an applicant shall pass a practical examination administered or accepted by the Virginia Board of Optometry. If the board chooses to use a regional or national practical examination, the applicant must pass this examination prior to licensure.~~

C. *All candidates must take and pass the law portion of the examination.*

D. *A candidate may take or retake the practical*

*examination or law examination upon payment of the prescribed examination fee.*

## PART III. UNPROFESSIONAL CONDUCT.

### § 3.1. Unprofessional conduct.

It shall be deemed unprofessional conduct for any licensed optometrist in the Commonwealth to:

1. Fail to use in connection with the optometrist's name wherever it appears relating to the practice of optometry one of the following: the word "optometrist," the abbreviation "O.D.," or the words "doctor of optometry."
2. Practice optometry under a name other than the optometrist's own name, except to the extent authorized by § 4.1, "Professional Designations."
3. Fail to maintain records on each patient for not less than five years from the date of the most recent service rendered.

a. A complete record of all examinations and treatment made of a patient shall include but not be limited to:

(1) During a comprehensive eye examination:

- (a) Care history;
- (b) Acuity measure;
- (c) Internal tissue health evaluation;
- (d) External tissue health evaluation;
- (e) Refraction;
- (f) Treatment, recommendations and directions to the patients, including prescriptions; and
- (g) Name of attending optometrist.

(2) During a contact lens examination:

- (a) The requirements of subdivision 3 a (1) of this section;
- (b) Assessment of corneal curvature;
- (c) Acuity through the lens;
- (d) Directions for the care and handling of lenses and an explanation of the implications of contact lenses with regard to eye health and vision; and
- (e) Name of attending optometrist.

# Proposed Regulations

- (3) During a follow-up contact lens examination:
- (a) Assessment of fit of lens;
  - (b) Acuity through the lens;
  - (c) Such further instructions as in § 3.1 3 a (2)(d) above as necessary for the individual patient; and
  - (d) Name of attending O.D.
4. Fail to include the following information on a prescription for ophthalmic goods:
- a. The printed name of the prescribing optometrist;
  - b. The address and telephone number at which the patient's records are maintained and the optometrist can be reached for consultation;
  - c. The name of the patient;
  - d. The signature of the optometrist;
  - e. The date of the examination, and, if appropriate, expiration date of the prescription;
  - f. *Any special instructions. All contact lens prescriptions shall be specifically identified and contain all necessary identification and contact lens parameters. The inclusion of the term "OK for contact lenses" on a specific prescription shall not be deemed acceptable for contact lens use.*
  - g. *Any special instructions.*
5. Refuse to provide a written prescription for spectacle lenses upon the request of the patient once all fees have been paid.
6. Refuse to provide a written prescription for contact lenses upon the request of the patient once all fees have been paid and the prescription has been established and the follow-up care completed. Follow-up care will be presumed to have been completed if there is no reappointment scheduled within 30 days after the last visit.
7. Advertise in a manner that is false, misleading, or deceptive. False, misleading and deceptive advertising shall include, but not be limited to, when the price of ophthalmic goods or services (or both) is advertised, to fail to state what goods and services the advertised price includes.
8. Administer any diagnostic pharmaceutical agents, specified in § 54.1-3221 of the Code of Virginia, without certification of the Board of Optometry to use such agent.
9. Fail to post conspicuously in the entrance or

reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location.

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

11. Fail to maintain patient records, perform procedures or make recommendations during any eye examination contact lens examination or treatment as necessary to protect the health and welfare of the patient.

12. *Practicing on an invalid license shall occur when the requirements as set forth in § 5.1 A and C or § 6.1 A and B have not been met.*

## PART IV. PROFESSIONAL DESIGNATIONS.

### § 4.1. Professional designations.

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

- 1. The ~~full~~ name of the optometrist as it appears on his license ~~and or~~ renewal certificate; or
- 2. The name of an optometrist who employs him and practices in the same office; or
- 3. A partnership name composed of some or all names of optometrists practicing in the same office; or
- 4. A fictitious name, if the conditions set forth in subsection B. of this section are fulfilled.

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

- 1. Each fictitious name shall be registered with the board by a licensed optometrist, who must be associated with the optometric office and who shall assume responsibility for compliance with this section. Each fictitious name shall be approved by the board and a fee shall be paid as prescribed by board regulations prior to use of the name. Names which, in the judgment of the board, are false, misleading, or deceptive will be prohibited.
- 2. No licensed optometrist may, at any time, register to practice optometry under more than one fictitious name.
- 3. All advertisements, including but not limited to

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signs, printed advertisements, and letterheads, shall contain the following: *word*

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

b. Lettering in which the name of the optometrist appears of at least half the size of the lettering in which the fictitious name appears.

4. No fictitious name may be used that does not contain the word "optometry" or reasonably recognizable derivatives thereof unless the name of the optometrist is used with the fictitious name with the O.D. designation or Doctor of Optometry .

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

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

7. 6. Subsequent to the administration of any optometric service, the optometrist of record shall place his name in the record of the patient following a description of the service rendered. If the treatment is rendered by an optometrist other than the optometrist of record, the name of that optometrist shall be placed in the record of the patient.

8. 7. The name of the licensed optometrist providing care shall appear on the initial statement of charges and on the receipts given to patients.

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

## PART V.

### RENEWAL OF LICENSURE; REINSTATEMENT.

#### § 5.1. Renewal fees.

A. Every person authorized by the board to practice optometry shall, on or before October 31 of every year, pay to the executive director of the Board of Optometry the prescribed annual licensure fee.

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

C. It shall be the duty of each person so licensed to return the renewal application with the prescribed fee prior to the expiration of their license *postmarked no later than October 31* . The license of every person who does not return the completed form and fee by ~~October 31~~ of each year shall automatically become invalid. Upon expiration of the license, the executive director of the board shall notify the licensee of expiration and reinstatement procedures. The board shall reinstate the lapsed license, provided that the applicant can demonstrate continuing competence; that the applicant has satisfied requirements for continuing education during the lapsed period; and that the applicant has paid the prescribed late fees, all unpaid renewal fees from the time the license lapsed, and the prescribed reinstatement fee. *The license of every person who does not return the completed form and fee by October 31 of each year shall be extended for 30 days until November 30 and may be renewed by paying the prescribed late fee, postmarked no later than November 30 provided the requirements of § 6.1 have been met. After November 30, an unrenewed license is invalid. The executive director may reinstate the lapsed license until November 30. After November 30, reinstatement shall be by vote of the board, provided that the applicant can demonstrate continuing competence; that the applicant has satisfied requirements for continuing education during the lapsed period; and that the applicant has paid all unpaid renewal fees from the time the license lapsed, and the prescribed reinstatement fee. In addition to the foregoing reinstatement procedure, the failure to renew a license may subject the licensee to disciplinary action by the board.*

D. The board may, in its discretion, require an applicant who cannot satisfy §§ 1.2 and 2.1 and the requirement of subsection C of § 5.1 of these regulations, to pass all parts of the written examination of the National Board of Examiners in Optometry or the state practical examination administered or accepted by the board , or both.

## PART VI.

### CONTINUING EDUCATION.

#### § 6.1. Continuing education.

A. Each license renewal shall be conditioned upon submission of evidence to the board of 12 hours ~~(24 hours for the October 31, 1988, renewal)~~ of continuing education taken by the applicant during the previous license period.

B. It shall be the responsibility of each licensee to submit evidence substantiating attendance of continuing education courses, as required by subsection A of this section, no later than the last day of each license period *than October 31 of the license period* .

# Proposed Regulations

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

1. The title of the course;
2. The sponsoring organization(s);
3. The name of the lecturer;
4. The qualifications of the lecturer;
5. An outline of the course's content;
6. The length of the course in clock hours;
7. The method of certification of attendance or completion if offered as a correspondence course; and
8. Number of credit hours requested.

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

Courses excluded by the board shall include:

1. Courses which are designed to promote the sale of specific instruments or products;
2. Courses offering instruction on augmenting income; and
3. Courses which are neither advertised nor in fact available to all optometrists or any courses for which there is no independent assurance that no part of the educational session is devoted to the promotion of specific instruments, products, or marketing philosophies.

E. When the annual license fee is submitted to the executive director of the board, the licensee shall enclose with it the required forms to indicate fulfillment of the continuing education requirements for the previous period. *All continuing education must be completed prior to October 31 unless extension or waiver has been granted by the Continuing Education Committee.* In the event such form, with proper substantiation, is not filed by that continuing education has not been completed by October 31, the executive director of the board shall notify the licensee that their license has lapsed. The board may reinstate the license, upon showing of disability or undue hardship, or upon showing that the licensee has complied with the requirements of subsection B of this section.

## VIRGINIA RACING COMMISSION

**Title of Regulation:** VR 662-05-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering:

### Standardbred Racing.

**Statutory Authority:** § 59.1-369 of the Code of Virginia.

**Public Hearing Date:** April 17, 1991 - 9:30 a.m.  
(See Calendar of Events section for additional information)

### Summary:

*The Virginia Racing Commission is authorized by § 59.1-369 of the Code of Virginia to promulgate regulations for the licensure, construction and operation of horse racing facilities with pari-mutuel wagering. The proposed regulation is to establish the conditions, procedures and driving rules for the conduct of Standardbred racing which is trotting and pacing horses, hitched to sulkies.*

VR 662-05-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Standardbred Racing.

### PART I. GENERALLY.

#### § 1.1. Definitions.

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

*"Hopples" means equipment including straps with loops at each end, each loop encircling a leg on the same side of the horse's body which tend to steady the horse and help it to maintain its gait.*

*"Starting point" means a point, no less than 200 feet from the first turn, where the starter gives the word, "Go."*

*"Standardbred racing" means races whereby registered Standardbred horses compete in harness and hitched to sulkies.*

*"Starter" means a horse that obtains a fair start when the starter dispatches the horses.*

*"Sulky" means a dual-shaft, dual-wheel racing vehicle on which the driver is seated.*

*"Warmup trip" means a horse being exercised prior to racing.*

### PART II. CONDUCT OF RACING.

#### § 2.1. Paddock procedures.

*The trainer shall be responsible for the arrival in the paddock at the time prescribed by the stewards for each horse entered by the trainer. The following provisions*

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shall apply to the procedures to be followed in the paddock:

1. The paddock time shall not be less than one hour prior to post time;
2. Except for warmup trip, no horse shall leave the paddock until the post parade;
3. No driver, trainer or groom, once admitted to the paddock shall leave the paddock unless to attend a horse during a warmup trip;
4. Once leaving the paddock, no person except an owner who has another horse entered in a later race shall be permitted to return;
5. Any horse that falls to the racing surface during a warmup trip shall be automatically excused by the stewards;
6. The licensee shall provide the services of a farrier during hours when horses are racing or taking warmup trips; and
7. The licensee shall provide equipment so that racing will not be unnecessarily delayed due to broken equipment.

## § 2.2. Sulky.

All Standardbred racing shall be conducted with each horse hitched to a sulky. Each sulky shall have dual shafts and shall be equipped with wheel discs on the inside and outside of each wheel. During inclement weather, the wheels may be covered with mud guards.

## § 2.3. Identifying equipment.

The licensee shall supply to each horse entered a numbered saddle pad and head number which corresponds to the number of the horse as listed in the daily racing program. The horse shall wear the saddle pad and head number during all warmup trips.

## § 2.4. Racing colors.

Drivers must wear distinguishing colors, clean white pants and a safety helmet, with the chin strap in place, during all warmup trips and races.

## § 2.5. Substitute driver.

No driver shall, without good and sufficient reason, refuse to drive a horse when ordered by the stewards to substitute for another driver. When a driver is programmed to drive a horse and removed at his request, he shall not be permitted to drive another horse in the same race.

## § 2.6. Late driver change.

No driver may be changed without the permission of the stewards and for good cause. A person who causes a driver change after the daily racing program has been printed shall be subject to disciplinary action.

## § 2.7. Hopples.

A pacer habitually wearing hobbles shall not be permitted to start in a race without them unless permission is granted by the stewards. A free-legged pacer shall not be permitted to race with hobbles unless permission is granted by the stewards. Any person altering a horse's hobbles for a fraudulent purpose shall be subject to disciplinary action.

## § 2.8. Indiscriminate use of the whip.

Any permit holder using a whip in a brutal, excessive or indiscriminate manner shall be subject to disciplinary action.

## § 2.9. Post parade.

No horse may be excused from the post parade without the permission of the stewards. The horses comprising a race shall be formed in a post parade and on the track no less than 12 minutes prior to post time, unless due to inclement weather, the stewards decrease the length of time. The starter shall inform the drivers of the number and length of warmup scores to be taken prior to going to the starting gate.

## § 2.10. Timing procedure.

The time shall be taken from the first horse leaving the point which the distance of the race is measured until the winner reaches the wire. The leading horse shall be timed and his time only shall be announced. In the case of a dead heat for win, the time shall be accorded to the horses involved in the dead heat.

## PART III. DRIVING RULES.

### § 3.1. Start.

A driver shall obey the starter's instructions. The starter may make recommendations to the stewards that disciplinary action be taken against a driver for:

1. Delaying the start;
2. Failing to obey the starter's instructions;
3. Rushing ahead of the inside or outside wing of the starting gate;
4. Coming to the starting gate out of position;
5. Crossing over before reaching the starting post;

6. *Interfering with another driver or horse during the start; and*

7. *Failing to come up into the correct post position.*

## § 3.2. *Racing.*

*Although a leading horse is entitled to any part of the racing surface, except after selecting his position in the home stretch, the driver of the leading horse and any other driver committing any of the following acts shall be subject to disciplinary action:*

1. *Changing either to the right or left during any part of the race when another horse is so near him that it causes the other horse to shorten its stride or make a break;*

2. *Jostling, striking, hooking wheels or interfering with another horse or driver;*

3. *Crossing sharply in front of a horse or crossing over in front of a field of horses in a reckless manner, endangering other drivers;*

4. *Swerving in and out or pulling up quickly;*

5. *Crowding a horse or driver;*

6. *Carrying a horse out;*

7. *Causing confusion or interference among trailing horses;*

8. *Letting a horse pass inside needlessly or otherwise helping another horse to improve his position in the race;*

9. *Committing any act which shall impede the progress of another horse or causing him to break;*

10. *Changing course after selecting a position in the home stretch;*

11. *Swerving in and out, or bearing in and out, in a manner so as to interfere with another horse, cause another driver to change course or take back;*

12. *Driving in a careless or reckless manner;*

13. *Whipping under the arch of the sulky; and*

14. *Kicking a horse.*

## § 3.3. *Objections.*

*A driver may lodge an objection by promptly informing the patrol judge of his intention to lodge an objection upon pulling up his horse after the race. Once the driver has dismounted, he shall proceed immediately to the designated telephone in the paddock to enter his*

*objection.*

## § 3.4. *Driven to the finish.*

*A driver shall drive his horse so as to win or finish as near as possible to the first-place horse and demonstrate the best and fastest performance of which it is capable during the race.*

## § 3.5. *Inconsistent driving.*

*When a horse is driven or has been driven in the past with a design to prevent its winning a race, which it was evidently capable of winning, or driven in an inconsistent manner, or driven in a manner to perpetrate a fraud, the driver and anyone conspiring with him shall be subject to disciplinary action.*

## § 3.6. *Breaking.*

### *A. Driver's responsibility.*

*When a horse breaks from its gait, the driver shall at once, where clearance exists, take the horse to the outside and pull it to its gait. The stewards may set any horse back one or more places if a driver of a breaking horse does not:*

1. *Properly attempt to pull the horse to its gait;*

2. *Take the horse to the outside where clearance exists; or*

3. *Lose ground by the break.*

### *B. Lapped-on break.*

*The stewards shall set back a breaking horse when the nose of a contending horse, which is on gait, is at least even with the hind quarter of the breaking horse at the finish.*

### *C. Fraudulent intent.*

*A driver allowing his horse to break, or causing his horse to make a break, for a fraudulent purpose shall be subject to disciplinary action.*

### *D. Notation.*

*One of the stewards shall call out a break made during the course of a race so that the clerk of the course may make a notation on the horse's eligibility certificate.*

## § 3.7. *Excessive conversation.*

*A driver engaging in excessive or unnecessary conversation between or among other drivers while on the racing surface, either during warmup trips, post parade or races shall be subject to disciplinary action.*

# FINAL REGULATIONS

For information concerning Final Regulations, see information page.

## Symbol Key

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

## DEPARTMENT OF CORRECTIONS (BOARD OF)

**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Corrections will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 230-30-001. Minimum Standards for Jails and Lockups.

**Statutory Authority:** §§ 53.1-5 and 53.1-68 of the Code of Virginia.

**Effective Date:** May 1, 1991.

### Summary:

*This regulation establishes the evaluation criteria for the operation of jails and lockups statewide. This amendment revises § 6.1 to provide for annual fire safety inspections. This change brings the standard in compliance with § 27-98 of the Code of Virginia.*

*Localities that do not enforce the Virginia Statewide Fire Prevention Code must be inspected by the State Fire Marshal.*

*In addition, the word "food" was inserted into the proposed standard to clarify that the state health inspection reports deal solely with food service.*

VR 230-30-001. Minimum Standards for Jails and Lockups.

## PART I. INTRODUCTION.

### Article 1. Definitions.

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

*"Administrative segregation"* means a form of segregation from the general population when the continued presence of the inmate in the general population would pose a serious threat to life, property, self, staff or other inmates, or to the security or orderly running of the

institution. Inmates pending investigation for trial on a criminal act or pending transfer can also be included.

*"Annually"* means an action performed each calendar year.

*"Appeal"* means the procedure for review of an action by a higher authority.

*"Appropriate heating"* means temperatures appropriate to the summer and winter comfort zones. Heat shall be evenly distributed in all rooms so that a temperature no less than 65°F is maintained. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided when the temperature exceeds 85°F.

*"Appropriate lighting"* means at least 20 footcandles at desk level and in personal grooming area.

*"Audit"* means the determination of facility compliance with standards through an examination of records and operations by a team of qualified professionals.

*"Certification"* means an official approval by the Board of Corrections which allows a facility to operate.

*"Chief executive"* means the elected or appointed individual who by law or position has the overall responsibility for the facility's administration and operation.

*"Classification"* means the process for determining inmate housing, custody and program assignments.

*"Communication system"* means a mechanical audio transmission such as telephone, intercom, walkie talkie or T.V. monitor.

*"Contraband"* means any item possessed by inmates or found within the jail or lockup which is illegal by law or not specifically approved for inmate possession by the administrator of the facility.

*"Daily log"* means a written record for the recording of daily activities or unusual incidents.

*"Detainee"* means any person confined but not serving a sentence.

*"Disciplinary detention"* means the separation of an inmate from the general population for major violations of conduct or regulations.

*"Educational release"* means a custody status under

which inmates leave a facility to attend school or educational programs in the community.

*"Fire prevention practices"* means the activities and written procedures utilized and rehearsed to ensure the safety of staff, inmates and public.

*"Fire safety inspection"* means an inspection conducted by the Office of State Fire Marshal or local fire department.

*"Grievance procedure"* means the method by which inmates may formally address complaints to the facility administration.

*"Health care personnel"* means individuals whose primary duties are to provide health services to inmates.

*"Health inspection"* means an inspection conducted by the local or State Department of Health.

*"Indigent inmate"* means an inmate who has no financial means to purchase personal hygiene items or postage for mailing letters.

*"Inmate handbook"* means a manual, pamphlet or handout which contains information describing inmate activities and conduct.

*"Inmate records"* means written information concerning the individual's personal, criminal and medical history, behavior and activities while in custody.

*"Impartial officer or committee"* means individual(s) who are unbiased and are not directly involved in the particular incident or situation being reviewed.

*"Juvenile"* means a person less than 18 years of age.

*"Legal mail"* means mail addressed to or received from an attorney or court.

*"Lockup"* means a temporary detention facility where detainees are held for not more than 12 hours.

*"Medical screening"* means an observation and interview process within the booking procedure designed to obtain pertinent information regarding an individual's medical or mental health condition.

*"Major violations"* means those institutional violations for which an inmate may be punished either by being placed in disciplinary detention or by losing statutory good time.

*"Minor violations"* means those institutional violations punishable by less severe sanctions such as reprimand or loss of privileges.

*"Permanent log"* means a written record of a facilities' activities which cannot be altered or destroyed subject to state law.

*"Pharmaceuticals"* means prescription and nonprescription drugs.

*"Policy and procedures manual"* means a written record containing all policies and procedures needed for the operation of the facility in accordance with the law and the minimum standards for local jails and lockups.

*"Post order"* means a list of specific job functions and responsibilities required of each duty position.

*"Protective custody"* means a form of separation from the general population for inmates requesting or requiring protection from other inmates.

*"Quarterly"* means an action which occurs once every three months within a calendar year.

*"Recreational activities"* means any out-of-cell activity ranging from scheduled outside or inside recreation to informal table top games.

*"Semi-annual"* means an action occurring once every six months within a calendar year.

*"Volunteer"* means individuals who provide services to the detention facility without compensation.

*"Work release"* means a formal program whereby an inmate is permitted to leave confinement to maintain regular employment in the community and returns to custody during nonworking hours.

## Article 2. Legal Base.

§ 1.2. The Code of Virginia is the foundation for the development of Minimum Standards for Local Jails and Lockups. Section 53.1-68 of the Code of Virginia directs the State Board of Corrections to establish minimum standards for the construction, equipment, administration and operation of local correctional facilities. This Code section also authorizes the Board of Corrections to establish minimum standards for the construction, equipment and operation of lockups.

§ 1.3. The State Board of Corrections is authorized to monitor the activities of the department and its effectiveness in implementing the standards and goals of the board as specified by § 53.1-5 of the Code of Virginia.

## Article 3. Administration.

§ 1.4. The Minimum Standards for Local Jails and Lockups, adopted by the Board of Corrections on March 24, 1980, amended on May 13, 1980, and revised on April 1, 1987, are superseded on the effective date of these standards.

§ 1.5. The primary responsibility for application of these

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standards shall be with the sheriff or chief executive officer of the jail or lockup.

§ 1.6. These standards shall become effective on ~~April 1,~~ 1988 *May 1, 1991*.

## PART II. JAIL ADMINISTRATION.

### Article 1. Philosophy, Goals and Objectives.

§ 2.1. The facility shall have a written statement discussing its philosophy, goals and objectives.

### Article 2. Policies and Procedures.

§ 2.2. Written policy and procedures shall be maintained in a manual and shall be available 24 hours a day to all staff.

§ 2.3. Written policy shall provide that each facility shall be headed by a single chief executive officer to whom all employees and functional units are responsible.

§ 2.4. A written annual report of the availability of services and programs to inmates in a facility shall be reviewed and provided to the sentencing courts and may be provided to relevant community agencies.

## PART III. MANAGEMENT INFORMATION.

### Article 1. Release of Information.

§ 3.1. Written policies and procedures covering the release of information shall be developed in accordance with the rules and regulations promulgated by the Criminal Justice Services Board and the Virginia Plan for the Privacy & Security of Criminal History Record Identification.

### Article 2. Inmate Records.

§ 3.2. Written policy and procedures shall ensure that inmate records are current and accurate.

§ 3.3. Personal records shall be maintained on all inmates committed or assigned to the facility. These records shall contain, but not be limited to, the:

1. Inmates data form;
2. Commitment form and court order;
3. Records developed as a result of classification;
4. All medical orders issued by the facilities physician;

5. All disciplinary actions, or unusual incidents;
6. Work record and program involvement; and
7. Copies of inmates' property expenditure records and receipts.

### Article 3. Facility Logs and Reports.

§ 3.4. The facility shall maintain a daily log(s) which records the following information:

1. Inmate count and location;
2. Intake and release of inmates;
3. Entries and exits of physicians, attorneys, ministers, and other nonfacility personnel; and
4. Any unusual incidents such as those that result in physical harm to or threaten the safety of any person, or the security of the facility.

### Article 4. Classification.

§ 3.5. Written policy and procedures shall ensure the following:

1. Classification of inmates as to level of housing assignment and participation in correctional programs;
2. Separate living quarters for males, females, and juveniles;
3. Prohibition of segregation of inmates by race, color, creed or national origin;
4. Security permitting, equal access to all programs and activities, through separate scheduling, or other utilization of combined programs under supervision;
5. The proper release of inmates; and

Any exception to the above to be documented in writing.

### Article 5. Grievance Procedure.

§ 3.6. A written grievance procedure shall be developed and made available to all inmates with the following elements:

1. Grievance shall be responded to within a prescribed reasonable time limit;
2. Written responses including the reason for the decision shall be made to all grievances;
3. A review shall be made by someone not directly

involved in the grievance; and

4. All inmates shall have access to the procedures with guaranty against reprisal.

5. All inmates must be afforded the opportunity to appeal the decision.

## PART IV. JAIL PROGRAMS AND SERVICES.

### Article 1. Inmate Participation.

§ 4.1. The facility administrator shall make each inmate aware of available programs.

§ 4.2. Written policy and procedures shall:

1. Provide inmates access to recreational activities consistent with health and security regulations;
2. Provide all inmates access to regular physical exercise;
3. Specify eligibility for work assignments;
4. Govern the administration of local work programs;
5. Govern the administration of local work or education release programs if applicable; and

Any exception to the above shall be documented in writing.

### Article 2. Religious, Social and Volunteer Services.

§ 4.3. Written policy and procedures shall allow inmates to participate voluntarily in available religious services or counseling of their choice during scheduled hours within the facility.

§ 4.4. The facility shall secure and support social services and volunteer programs from the community. Where volunteers provide direct services to inmates in the facility there shall be written policies and procedures.

§ 4.5. The volunteer program shall be coordinated and administered in accordance with written policies and procedures. Each volunteer shall sign a statement agreeing to abide by facility rules and regulations.

### Article 3. Education and Library Services.

§ 4.6. Written policy and procedures shall govern the availability and administration of educational services for inmates. The facility administrator shall coordinate and cooperate with local authorities for the provision of local community services and resources utilized for this purpose

where they are available.

§ 4.7. The facility shall provide reading materials which include current periodicals (not more than one year old).

§ 4.8. Reading materials, including newspapers, magazines and books, shall be permitted in the jail unless the material poses a threat to security.

### Article 4. Commissary.

§ 4.9. The facility shall make available to inmates commissary services where they may purchase from an approved list of items.

### Article 5. Medical Services.

§ 4.10. A licensed physician shall supervise the facility's medical and health care services.

§ 4.11. No restrictions shall be imposed on the physician by the facility in the practice of medicine; however, administrative and security regulations applicable to facility personnel shall apply to medical personnel as well.

§ 4.12. Health care personnel shall meet appropriate and current licensing or certification requirements.

§ 4.13. Where in-house medical and health care services are provided there shall be space for the private examination and treatment of inmates.

§ 4.14. Written policy shall provide 24-hour emergency medical care availability.

§ 4.15. Written policy and procedure shall provide that receiving and medical screening be performed on all inmates upon admission to the facility.

§ 4.16. Written procedures shall be developed whereby inmates can be informed, at the time of admission to the facility, of the procedures for gaining access to medical services.

§ 4.17. All staff involved in security shall be trained and competent in rendering basic first aid equivalent to that defined by the American Red Cross in its use in emergency care procedures. Further, there shall be at least one person per shift who is competent in administering basic life support cardio-pulmonary resuscitation (CPR).

§ 4.18. Written standard operating procedures for the management of pharmaceuticals shall be established and approved by the facility's physician or pharmacist.

§ 4.19. The medical record for each inmate shall include:

1. The completed receiving screening form; and,

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2. All findings, diagnoses, treatment, dispositions, prescriptions, and administration of medication.

§ 4.20. Summaries of the medical record file shall be forwarded to the facility to which the inmate is transferred.

§ 4.21. Written policy shall prohibit medical or pharmaceutical testing for experimental or research purposes.

§ 4.22. Medical care performed by personnel other than a physician shall be pursuant to a written protocol or order.

## Article 6. Food Services.

§ 4.23. Written policy and procedures shall ensure that the facility's food service equipment and personnel meet the established safety and protection standards and requirements as set forth by the State Board of Health's rules and regulations governing restaurants and the requirements by the Virginia Department of Corrections.

§ 4.24. Written policy and procedures shall ensure a food service program that meets the requirements as set forth by the Virginia Department of Corrections which shall ensure that:

1. The menu meets the dietary allowances as stated in the Recommended Dietary Allowances, National Academy of Sciences;
2. There is at least a one-week advance menu preparation; and
3. Modifications in menus are based on inmates' medical or reasonable religious requirements.

§ 4.25. Written policy and procedures shall ensure a food service program that meets the requirements as set forth by the Virginia Department of Corrections which shall ensure meals are served under the direct supervision of staff.

§ 4.26. Written policy and procedures shall ensure a food service program that meets the requirements as set forth by the Virginia Department of Corrections which shall ensure that records of meals served are kept for a minimum of three years.

§ 4.27. Written policy and procedures shall ensure a food service program that is not used as a disciplinary measure and meets the requirements as set forth by the Virginia Department of Corrections.

§ 4.28. Written policy and procedures shall provide for at least three meals daily with no more than 14 hours between evening meal and breakfast, and a minimum of two hot meals within every 24 hours.

## Article 7. Mail.

§ 4.29. Written policy and procedures governing inmate correspondence shall ensure that all inmates, regardless of their jail status, shall be afforded the same correspondence privileges; correspondence privileges shall not be withdrawn as punishment.

§ 4.30. Written policy and procedures shall ensure that there is no limit on the volume of letter mail an inmate may send or receive, or on the length, language, content or source of such letter mail, except where there is clear and convincing evidence to justify such limitations.

§ 4.31. Written policy and procedures shall make available, when requested by an indigent inmate, a postage allowance of not more than five first-class rate (one ounce) letters per week, not counting legal mail.

§ 4.32. Written policy and procedures shall ensure that outgoing letters shall be collected and sent daily except Saturdays, Sundays, and holidays. Incoming letters to inmates shall be delivered no later than 24 hours after arrival at the facility or shall be promptly forwarded or returned to sender.

§ 4.33. Inmate mail shall not be read except where there is reasonable suspicion that a particular item of correspondence threatens the safety or security of the institution, or the safety of any person, or is being used for furtherance of illegal activities.

§ 4.34. Written policy and procedures shall assure that notice of the seizures of mailed contraband be given to the inmate and the sender together with the written reason for the seizure. The sender shall be allowed the opportunity to appeal and challenge the seizure before the facility administrator or a designee empowered to reverse seizure. Unless it is needed for a criminal investigation or prosecution, property which can legally be possessed outside the facility shall be stored, returned to sender or destroyed, as the inmate desires.

## Article 8. Telephone.

§ 4.35. Written policy and procedures shall ensure inmates reasonable access to telephone facilities.

§ 4.36. Written policy and procedures shall ensure that emergency messages to inmates are delivered promptly and recorded. When possible, the jail chaplain shall be notified of an immediate family member's death or serious illness.

## Article 9. Visiting.

§ 4.37. Written policy and procedures shall ensure maximum visiting opportunities limited only by facility

schedules, space and personnel constraints.

§ 4.38. The facility shall have a list of approved items which visitors may bring into the facility. Items brought into the facility by visitors for inmates shall be subject to inspections and approval.

§ 4.39. Written policy and procedures shall specify requirements for visitor registration and the circumstances and methods under which visitors may be searched.

## PART V. JAIL OPERATIONS.

### Article 1. Reception and Orientation.

§ 5.1. Written policy and procedures for admitting individuals into the jail shall address the following:

1. Verification of commitment;
2. Complete search of the individual and his possessions;
3. Disposition of clothing and personal possessions;
4. Interview for obtaining identifying data;
5. Photograph; and
6. Telephone calls.

§ 5.2. Written policy and procedures for those inmates to be confined in the jail shall address the following:

1. Shower/search;
2. Issue of clean clothing/hygiene items/linen;
3. Classification and housing assignment; and
4. Orientation.

§ 5.3. Written policy and procedures shall specify that newly admitted inmates who are physically capable are permitted to complete at least two local or collect long-distance telephone calls during the admissions process.

### Article 2. Linen and Clothing.

§ 5.4. Written policy and procedure shall provide that a record be kept to show that clean linen and towels be supplied once a week, a clean change of clothing be provided twice a week and inmates shall be held accountable for their use.

§ 5.5. The facility shall provide for the issuance of special and protective clothing to inmates assigned to food services, farm, sanitation, mechanical services, and other

special work functions.

### Article 3. Bathing and Hygiene.

§ 5.6. There shall be sufficient hot and cold water for bathing. Each inmate shall be required to bathe twice a week.

§ 5.7. The facility shall provide soap, a toothbrush, and toothpaste or toothpowder to each inmate upon admission to the general population. Notwithstanding security considerations, shaving equipment, including a mirror, and haircuts shall be made available, and hygiene needs of all inmates shall be met.

### Article 4. Inmate Money and Property Control.

§ 5.8. Written policy and procedures shall state what items the inmate may retain in his possession.

§ 5.9. A written itemized inventory of cash and personal property of each inmate shall be made at the time of initial booking. A signed copy shall be furnished the inmate.

§ 5.10. An itemized account shall be maintained of each inmate's expenditures and receipts of money while in the facility and acknowledged by the inmate in writing.

§ 5.11. Inmate's property and funds shall be returned to him upon his release or transfer and acknowledged by the inmate in writing.

### Article 5. Inmate Conduct and Discipline.

§ 5.12. Written policy and procedures shall govern inmate conduct and shall include:

1. Rules of conduct;
2. Definition of major and minor violations; and
3. Prohibition of the use of food as a disciplinary measure.
4. Upon assignment to general inmate housing, inmates shall receive a copy of inmate conduct rules and policy and procedures governing inmate conduct.

§ 5.13. Written policy and procedures shall govern the reporting and disposition of disciplinary infractions by inmates and shall include:

1. Procedures and provisions for pre- and post-disciplinary detention of inmates; and
2. Procedures for handling minor violations:

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a. The accused inmate is given written notice of the charge and the factual basis for it;

b. The accused inmate shall have an opportunity to explain or deny the charge;

c. The accused inmate shall be given a written statement by the fact finders as to the evidence relied upon and the reasons for the disciplinary action.

d. The accused inmate shall have an opportunity to appeal any finding of guilt to the facility administrator; and

### 3. Procedures for handling major violations:

a. The accused inmate is given written notice of the charge and the factual basis for it at least 24 hours prior to the hearing of the charge;

b. The charge is heard in the inmate's presence by an impartial officer or committee.

c. The accused inmate is given an opportunity to have the assistance of a staff member or fellow inmate in defending the charge;

d. Witness statements and documentary evidence will be permitted in his defense; and

e. The accused inmate shall be given a written statement by the fact finders as to the evidence relied upon and the reasons for the disciplinary action.

f. The accused inmate is permitted to appeal any finding of guilt to the facility administrator.

### Article 6. Security.

§ 5.14. The facility shall maintain a designated post, manned 24 hours a day, that controls activities and flow of people in and out of the secure area of the jail.

§ 5.15. The facility's outside recreation area shall be secure so that inmates shall not have physical access to the general public without authorization.

§ 5.16. Written policy and procedures shall require that all security perimeter entrances, control center doors, cell block doors and all doors opening into a corridor are kept locked except when used for admission or exit of employees, inmates or visitors, or in emergencies.

§ 5.17. Written policy and procedures shall govern the security, storage and use of firearms, ammunition, chemical agents, and related security devices to ensure that:

1. Personnel who carry firearms are assigned positions that are inaccessible to inmates (with the exception of emergencies);

2. Personnel who discharge firearms or use chemical agents submit written reports to the administrator or designated subordinate no later than the conclusion of the shift during which same are discharged or used.

§ 5.18. Written policy and procedures shall specify the conditions under which an officer can enter a security cell or cell block.

§ 5.19. The facility shall provide a communications system allowing staff to communicate with each other to facilitate staff supervision.

§ 5.20. Written policy and procedures shall specify that, at least once daily, a careful examination be made of all security devices and that maintenance be routinely performed to ensure their proper operation.

§ 5.21. Written policy and procedures shall specify the process for conducting and documenting searches of the facility and inmates.

§ 5.22. The facility shall post the policy regarding searches for the control of contraband or otherwise make it available to staff and inmates. Further, the policy shall be reviewed at least annually and updated as needed.

§ 5.23. Written policy and procedures shall govern key and door control.

§ 5.24. Written policy and procedures shall govern the control and use of tools, culinary items and cleaning equipment.

§ 5.25. Written policy and procedures shall specify the control, storage and use of all flammables, toxic and caustic materials.

§ 5.26. Written post orders shall clearly describe the functions of each duty post in the facility and include copies in the policy and procedures manual.

§ 5.27. Written policy and procedures shall specify and restrict the use of physical force which is necessary for instances of self-protection, protection of others, protection of property and prevention of escapes. Such physical force shall be restricted to that necessary only to overcome such force as is being exerted. A written report shall be prepared following all such incidents described above and shall be submitted to the administrator for review and justification.

§ 5.28. Written policy and procedures shall govern the use of restraint equipment.

§ 5.29. Written policy and procedures shall provide for administrative segregation of inmates who pose a security

threat to the facility or other inmates and for inmates requiring protective custody.

§ 5.30. Written policies and procedures shall ensure that, inmate behavior permitting, the disciplinary detention and administrative segregation units provide physical living conditions that approximate those offered the general inmate population.

§ 5.31. Written policy and procedure shall specify the handling of mental health inmates to include an agreement to utilize mental health services from either a private contractor or the community services board.

§ 5.32. Written policy and procedures shall ensure that a log be kept to record all activities in disciplinary detention and administrative segregation units.

§ 5.33. Written policy and procedures shall require that an assessment, including a personal interview and medical evaluation, is conducted when an inmate remains in administrative segregation or disciplinary detention beyond 15 days and every 15 days thereafter.

§ 5.34. The facility shall provide for around-the-clock supervision of all inmates by trained personnel. All inmate housing areas shall be inspected a minimum twice per hour. All inspections and unusual incidents shall be documented.

§ 5.35. Supervisory staff shall inspect the institution daily. Unusual findings shall be indicated in writing and submitted to an administrative official for review.

§ 5.36. Written policies and procedures shall regulate the movement of inmates within the facility.

§ 5.37. Written policy shall prohibit inmates from supervising, controlling or exerting any authority over other inmates.

§ 5.38. Written policy and procedures shall specify the process to be followed in emergency situations, mass arrest, fire, disturbance, taking of hostages, escapes, attempted suicides, loss of utilities and natural disasters. All personnel shall be trained in the implementation of emergency plans. Plans shall be reviewed annually.

#### Article 7. Release.

§ 5.39. Written policy and procedures shall require that, prior to an inmate's release, positive identification is made of the releasee, authority for release is verified and a check for holds in other jurisdictions is completed.

### PART VI. JAIL PHYSICAL PLANT.

#### Article 1. Fire and Health Inspection.

§ 6.1. The facility shall have an annual state or local health food service and fire safety inspection ; ~~and written~~ . Localities that do not enforce the Virginia Statewide Fire Prevention Code (VSFPC) shall have the inspections performed by the Office of the State Fire Marshal. Written reports ; ~~filed~~ of the fire safety and health food service inspection shall be on file with the facility administrator. One fire safety inspection shall be completed by the Office of the State Fire Marshal every three years.

#### Article 2. Fire Prevention and Safety.

§ 6.2. Written policy and procedures shall specify the facility's fire prevention practices to ensure the safety of staff, inmates, and the public. They shall be reviewed annually.

§ 6.3. Mattresses, pillows and trash receptacles present in the secured housing shall be of nontoxic and fire retardant materials.

§ 6.4. The facility shall have a written master plan for the safe and orderly evacuation of all persons in the event of a fire or an emergency. Such a plan shall be reviewed by all staff quarterly. The quarterly review shall be documented.

#### Article 3. Facility Cleanliness.

§ 6.5. Facility floors, halls, corridors, and other walkway areas shall be maintained in a clean, dry, hazard-free manner.

§ 6.6. The facility shall control vermin and pests and shall be serviced at least quarterly by professional pest control personnel.

#### Article 4. Housing Areas.

§ 6.7. All housing and activity areas shall provide for appropriate lighting and heating.

§ 6.8. All housing areas shall have toilets, showers, drinking water and washbasins with hot and cold running water accessible to inmates.

#### Article 5. Special Purpose Area.

§ 6.9. The facility shall have a special purpose area to provide for the temporary detention and care of persons under the influence of alcohol or narcotics or for persons who are uncontrollably violent or self-destructive and those requiring medical supervision.

#### Article 6. Security Equipment Storage.

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§ 6.10. The facility shall provide secure storage for firearms, chemical agents, and related security equipment accessible to authorized personnel only and located outside the security perimeter or the inmate housing and activity areas.

## PART VII. JUVENILES.

### Article 1. Housing.

§ 7.1. Those facilities which, on occasion, house juveniles shall be certified by the Board of Corrections for the express purpose of holding juveniles.

§ 7.2. Juveniles shall be so housed as to be separated by a wall or other barrier which would result in preventing visual contact and normal verbal communication with adult prisoners except in instances of casual contact under supervision.

§ 7.3. The facility shall have one or more persons on duty at all times responsible for auditory and visual contact with each juvenile at least every 30 minutes. Contact shall be at least every 15 minutes when juveniles exhibit self-destructive or violent behavior.

Article 2.  
Isolation or Segregation, utilized only as a protective or disciplinary measure.

## PART VIII. LOCKUPS.

### Article 1. Responsibility.

§ 8.1. The chief of police, town sergeant, or, in case of a county's operating a lockup, the sheriff shall be responsible for seeing that the lockup is operated in full conformity with these regulations.

### Article 2. Coverage.

§ 8.2. When the lockup is occupied at least one employee shall be on duty at the lockup at all times.

### Article 3. Search and Inspection.

§ 8.3. The facility shall comply with the search requirements included in § 19.2-59.1 of the Code of Virginia.

§ 8.4. Quarterly inspections shall be made and recorded of bars, locks and all security devices.

### Article 4. Commitment and Release.

§ 8.5. A written record shall be maintained to include name, date, and time of commitment and release of all detainees confined in the lockup.

### Article 5. Property.

§ 8.6. Written policy and procedures shall govern the inventory and control of detainee property. The detainee shall sign for all property taken upon admission and returned to him upon release. If the detainee refuses to sign this shall be witnessed and documented.

### Article 6. Telephone.

§ 8.7. Written policy and procedures shall specify that newly admitted inmates who are physically capable are permitted the opportunity to complete at least two local or collect long distance telephone calls during the admissions process.

### Article 7. Separation of Inmates.

§ 8.8. A lockup shall detain juveniles in strict compliance with § 16.1-249 of the Code of Virginia.

§ 8.9. Males shall be housed separately from females.

§ 8.10. There shall be written policy for the protection of inmates appearing to be vulnerable to physical or sexual attack.

### Article 8. Medical.

§ 8.11. Written policy and procedures shall provide for 24-hour emergency medical and mental health care availability.

§ 8.12. A permanent log shall be maintained on all medical findings, diagnoses, treatment, dispositions, prescriptions and administration of medications.

### Article 9. Visiting.

§ 8.13. Written policy and procedures shall ensure that:

1. There be visiting opportunities limited only by facility schedules, security, space and personnel constraints;
2. Visitors register upon entry into the facility;
3. Circumstances and methods under which visitors may be searched are delineated;
4. Attorneys be permitted to have confidential visits with their clients; and

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Any exception to the above shall be documented in writing.

## Article 10. Inmate Control.

§ 8.14. Written policies and procedures shall ensure that punishment shall not be utilized as a means of control or discipline in lockups. Tear gas, chemical mace, or similar devices shall not be used as punishment and may only be used to control detainees where there is an imminent threat of physical injury.

## Article 11. Incident Report.

§ 8.15. A report setting forth in detail the pertinent facts of deaths, escapes, discharging firearms, using chemical agents, or any other serious occurrences shall be reported to the Regional Manager, Department of Corrections, or his designee.

## Article 12. Facility and Inmate Cleanliness.

§ 8.16. A detainee shall have access to a wash basin and toilet facility.

§ 8.17. The detention area shall be maintained in a clean, dry, hazard-free manner.

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**REGISTRAR'S NOTICE:** This regulation is excluded from the Administrative Process Act in accordance with subdivisions 9 and 10 of § 9-6.14:4.1 B of the Code of Virginia, which excludes agency action relating to inmates of prisons or other such facilities or parolees therefrom, or the custody of persons in, or sought to be placed in, mental, penal or other state institutions as well as the treatment, supervision, or discharge of such persons.

**Title of Regulation:** VR 230-30-003. Virginia Probation and Parole Standards.

**Statutory Authority:** § 53.1-5 of the Code of Virginia.

**Effective Date:** May 1, 1991.

### **Summary:**

*This regulation establishes the evaluation criteria for the administration and supervision of probation and parole offices statewide.*

*The substance of this regulation does not differ from the previous regulation. Some wording has been updated and the regulation has been reorganized and formatted into the Virginia Register format.*

VR 230-30-003. Virginia Probation and Parole Standards.

## PART I. INTRODUCTION.

### § 1.1. Definitions.

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

"Director" means the Director of the Department of Corrections.

"Probation and parole officer" means persons working in Probation and Parole Services such as Probation Counselor, Chief Probation and Parole Officer, and Deputy Chief Probation and Parole Officer.

"Revoking authority" means Virginia Parole Board or sentencing court.

### § 1.2. Legal basis.

Section 53.1-140 of the Code of Virginia authorizes the director to direct and supervise the work of all probation and parole offices and to carry into effect all orders, rules and regulations of the Virginia Parole Board. Section 53.1-141 of the Code of Virginia requires the director to divide the Commonwealth into separate probation and parole districts.

### § 1.3. Supersession and effective date.

These standards supersede the Virginia Probation and Parole standards dated May, 1983. They shall become effective on May 1, 1991.

## A. ADMINISTRATION, ORGANIZATION AND MANAGEMENT

A1 The Probation and Parole District and its programs are managed by a Chief Probation and Parole Officer.

A2 There is a written organizational plan and chart reflecting the current structure of authority, responsibility and accountability within the District.

A3 Written District policy and procedure provide for the participation of all employees in staff meeting related to their respective duties. Copies of the minutes of the meeting shall be forwarded to the Regional Manager.

A4 Each professional staff member in the District shall maintain and keep current his/her copy of the Probation and Parole Officer's Manual.

A5 The District shall maintain and keep current its copies of the Department's Administrative Policy Manual, Secretarial Administrative Manual and the Department of Personnel and Training Policies and

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## Procedures Manual:

A6 Written policy and procedure govern the dissemination of case information to the public, and address confidentiality requirements and the designation of who provides such information.

DISCUSSION: Probation and parole authorities often are requested to provide information about cases under supervision, and it is important that policies exist within the agency to specify who should provide such information and how it should be provided. Procedures regarding the confidentiality of case records should be observed at all times.

A7 There is a written procedure for the investigation of citizen complaints about the District.

DISCUSSION: In order to maintain credibility with the public, the District must investigate and respond to complaints registered by citizens.

## PART II. ADMINISTRATION AND MANAGEMENT.

### § 2.1. Organization.

A. A written organizational chart reflecting the current structure of authority shall be maintained within the district or unit.

B. Written district or unit procedure shall provide for the participation of all employees in staff meetings relating to their respective duties.

C. Each probation and parole officer shall maintain and keep current a copy of the Probation and Parole Officer's Manual.

D. The district chief, unit head, or their designee shall maintain and keep current copies of the department's Policy and Procedures Manual, Secretarial Administrative Manual, the Department of Personnel and Training Policies and Procedure's Manual, and the Adult Community Corrections Division Operating Procedures.

E. Written procedures shall govern the dissemination of client information to the public, address confidentiality requirements, and designate who may provide such information.

F. Written procedure shall provide for the investigation of citizen complaints about the district.

### B. PERSONNEL

B1 A criminal record check is conducted on all pending employees to ascertain whether there may be criminal convictions which would affect job performance.

B2 Written policy prohibits personnel from accepting any gift or gratuity from or engaging in personal business transactions with the client or the client's immediate family.

DISCUSSION: The potential conflict of interest is obvious and potentially harmful to the Probation and Parole District, its personnel and the client, and such activities should be unequivocally prohibited. Field personnel should not handle funds or property belonging to the client except when essential to their supervisory function.

B3 The Probation and Parole District maintains an accurate, current, and confidential personnel record on each employee.

B4 Written policy and procedure ensure the confidentiality of the personnel records.

DISCUSSION: Employee records must be protected against unwarranted examination. Department policy should specify both those persons authorized to use confidential personnel records and the purposes for such use.

B5 Written policy and procedure make provisions for employees to challenge information in their personnel record and have it corrected or removed if it is proven inaccurate.

DISCUSSION: Employees should be permitted to review their personnel file to see that it is current and to check for omissions or inaccuracies.

B6 Written policy and procedure provide for a written annual performance review of all employees which is based upon defined criteria and is reviewed and discussed with the employee.

### § 2.2. Personnel.

A. Written procedures shall provide for the confidentiality of personnel records.

B. A criminal record check shall be conducted on all employees prior to employment to find out if there may be criminal convictions which would affect job performance.

C. A written performance evaluation for each employee shall be completed annually based upon defined criteria and reviewed and discussed with the employee.

D. The chief probation and parole officer or unit manager shall maintain a current and accurate personnel record on each employee.

E. Written procedures shall provide for employees to challenge information in their personnel record and to have it corrected or removed if proven to be inaccurate.

## G. TRAINING AND STAFF DEVELOPMENT

G1 Each new Probation and Parole Officer shall as soon as possible and not later than one (1) year satisfactorily complete the Basic Training course offered by the Department of Corrections.

G2 Written policy and procedure provide that all full time professional employees receive yearly training as follows: Employees with four (4) or less years of experience will receive a minimum of thirty (30) hours of training plus such additional hours as may be directed by the Chief Officer/Regional Manager.

Employees with from four (4) to eight (8) years of experience will receive a minimum of twenty (20) hours of training plus such additional hours as may be directed by the Chief Officer/Regional Manager.

Employees with over eight (8) years of experience will have no required minimum number of hours of training except those directed by the Chief Officer/Regional Manager.

### § 2.3. Training and staff development.

Upon employment each probation and parole officer shall satisfactorily complete all basic training and subsequent inservice training requirements as specified by the Division of Adult Community Corrections.

## D. FISCAL MANAGEMENT

D1 The Probation and Parole District's budget process is in accord with the policies, procedures, and instructions of the Region, Division, and Department.

D2 The Chief Probation and Parole Officer monitors and reviews, on a continuing basis, the expenditure of budgeted funds.

D3 The Chief Probation and Parole Officer is responsible for the collection, safeguarding and disbursement of all monies in accordance with court order and/or Department policy. The written policy and procedure regarding the collection, safeguarding and disbursement of these monies are made known to staff.

### § 2.4. Fiscal management.

A. The probation and parole district's budget process shall comply with procedures and instructions of the department, division and region.

B. The chief probation and parole officer shall monitor and review the expenditure of budgeted funds on a continuing basis.

C. The chief probation and parole officer shall be responsible for the collection, safeguarding and

disbursement of all moneys in accordance with court order, department and district procedures. Written procedure regarding collection, safeguarding and disbursement of moneys shall be provided to staff.

## E. CASE RECORDS

E1 Written policy and procedure govern case record management and include, but are not limited to: the establishment, utilization, content, privacy, security, preservation, and a schedule for retiring or destroying inactive case records.

E2 The probation and Parole District maintains written records of significant decisions and events regarding probationers/parolees.

DISCUSSION: Such records should include reasons for the client's entry into the system, actions taken by the client and officer, and rationale for significant decisions from entry until termination of supervision. Comprehensive case records expedite case reviews and conserve resources.

E3 The contents of case records in Probation and Parole Districts are separated and identified according to an established format.

E4 Case records are safeguarded from unauthorized and improper disclosure.

### § 2.5 Case records.

A. Written procedure shall specify the utilization and maintenance of case records including the recording of significant events and decisions.

B. Contents of case records shall be maintained according to the format in the Probation and Parole Officer's Manual.

C. Written procedure shall provide for the retention and disposition of inactive case records.

D. Case records shall be safeguarded from unauthorized and improper disclosure.

## F. SUPERVISION.

F1 There exists a written work load formula which is used in the allocation of work to field staff. The average caseload shall not exceed sixty (60) cases.

F2 Field staff who have case loads report to a designated supervisor.

F3 Field supervision of clients is periodically reviewed by a supervisor from both an administrative and case management perspective.

F4 Written policy and procedure govern classification

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and supervision of clients in order to safeguard the community and meet the program needs of the client.

F5 The conditions of probation/parole are furnished in writing to the client, and when a problem prevents a client from understanding probation/parole conditions, an officer or other person assists the client to understand them.

F6 The client acknowledges, in writing, the receipt of the conditions of probation/parole.

F7 Written policy provides that emergency supervision services are available twenty-four (24) hours a day.

**DISCUSSION:** The needs of clients do not emerge only during business hours; it is necessary that services exist around-the-clock and on weekends. The twenty-four (24) hour availability of supervision services should be made known to clients.

F8 The client's goals and objectives are developed and reviewed with him/her on an as-needed basis and adjusted in accordance with the client's performance in the community.

F9 The supervision of the client shall be in compliance with the requirements of the Standards of Supervision.

F10 Written procedure governing supervision of clients provides for review of levels of supervision with prompt reclassification where warranted.

F11 Written policy and procedure preclude clients from being confronted with possible probation/parole violations for failure to meet financial obligations other than those which are conditions of probation/parole.

F12 Written criteria exist which permit the supervising officer to recommend early release from active supervision.

F13 A current inventory of functioning community agencies, including those providing financial assistance, is maintained which is readily available to the field staff. The effectiveness of these resources is evaluated periodically.

F14 The Probation and Parole District assists employable clients in finding suitable employment.

F15 All arrests and alleged probation/parole violations are investigated; all serious arrests and major probation/parole violations are reported in writing to the proper authority.

F16 Written policy and procedure govern cooperation with law enforcement agencies in efforts to apprehend clients known to be, or suspected of being, involved in

criminal activities.

F17 Written policy and procedure specify the types of action required to locate and recover absconders.

**DISCUSSION:** Immediate steps should be taken to locate absconders. Experience indicates that many, if not most, absconders remain in or near their home communities. Field investigation should include inquiry at the last known residence and place of employment; checks with family, friends, local jails, hospitals, welfare and service agencies, and other agencies with whom the offender may have had contact. When appropriate, all law enforcement agencies should be notified and an arrest warrant issued.

F18 Written policy and procedure govern the authorization of Probation and Parole Officers to cause the arrest of clients.

F19 Probation and Parole Officers do not carry weapons in the performance of their duties.

F20 The initial personal contact between the newly released parolee and the field staff takes place as soon as possible, as required by the Standards of Supervision, unless otherwise agreed upon prior to release or the client fails to report as directed.

F21 Supervision and delivery of services for mandatory parolees are of the same quality as that provided probationers and discretionary parolees.

F22 A probation officer conducts an initial supervision interview with the probationer, as required by the Standards of Supervision, after notification that the individual has been placed on probation, unless otherwise agreed to or the client fails to report as directed.

## § 2.6 Supervision.

A. The district's average caseload shall not exceed 60 clients.

B. Client case files shall be reviewed periodically by a supervisor as required by division procedures.

C. Written procedure shall specify the classification and supervision of clients in order to safeguard the community and meet client program needs.

D. Written conditions of probation or parole shall be furnished to the client. When a problem prevents a client from understanding probation or parole conditions, an officer or other person shall assist the client in understanding them.

E. Written procedure shall provide that emergency supervision services be available 24 hours a day.

F. The client's goals and objectives shall be developed and reviewed with him as needed and adjusted based on his performance in the community.

G. Client supervision shall be in compliance with the Standards of Supervision.

H. Written procedure shall provide for review of levels of supervision with reclassification of clients when warranted.

I. Clients shall not be confronted with possible probation or parole violations for failure to meet financial obligations that are not Conditions of Probation or Parole or required by state law.

J. Written procedures shall permit the supervising officer to recommend early release from active supervision.

K. Written procedure shall require that all arrests and alleged probation and parole violations be recorded, investigated, and if appropriate, reported in writing to the revoking authority.

L. Written procedure shall provide for the issuance and execution of the Arrest Authority (PB-15).

M. Probation and parole officers shall not carry a firearm in the performance of their duties.

N. The initial personal contact between a new client and the probation and parole officer shall be as outlined in the Standards of Supervision.

## G. INVESTIGATIONS

G1 The District conducts investigations in accordance with existing policy.

G2 The Chief Probation and Parole Officer organizes and manages the resources in his/her District in order to provide for both the investigation and supervision functions.

G3 Written policy specifies that the primary purpose of the Presentence Report (PSI) is to provide the sentencing court with timely, relevant and accurate data so that it may select the most appropriate sentencing alternative or correctional disposition; subject to this primary purpose, the report (PSI) is prepared, subject to the Department of Corrections' approved format, in a manner to serve the needs of any correctional institution or agency.

G4 Written policy and procedure permit the use of staff other than Probation and Parole Officers to collect information during the Presentence investigation.

G5 A potential supervision plan is developed during the Presentence investigation and included as part of

the Presentence Report.

G6 If probation is one of the sentencing alternatives, the Probation and Parole Office identifies the need for special conditions of probation, if any, and recommends that these special conditions be appended to the general conditions of probation.

G7 The Presentence Report is submitted to the court for review and evaluation a minimum of five (5) days in advance of the date set for sentencing, unless directed otherwise by the court.

G8 All Presentence Reports and recommendations are subject to review by a Chief Probation and Parole Officer or Deputy Chief prior to submission to the court.

G9 Written procedure ensures the timely transmittal by the Probation and Parole District of Pre and Postsentence Reports to the appropriate Departmental Unit when confinement in the Virginia Department of Corrections is ordered.

## § 2.7 Investigations.

A. Probation and parole district staff shall conduct investigations in accordance with procedures provided by the Department of Corrections, Division of Adult Community Corrections, Virginia Parole Board, and appropriate courts.

B. Written procedure shall specify that the primary purpose of the Presentence Report is to provide the sentencing court with timely, relevant and accurate data so that it may select the most appropriate disposition. The report shall be prepared in the Department of Corrections' approved format.

C. Written procedure shall allow the use of staff other than probation and parole officers for the collection of information necessary for the completion of any properly assigned investigation.

D. The Presentence Report shall be submitted to the court for review and evaluation as specified in the Code of Virginia unless otherwise directed by the court.

E. Written procedure shall require timely transmittal of Presentence and Postsentence Reports to the appropriate departmental unit.

## BOARD OF MEDICINE

Title of Regulation: VR 465-01-01. Public Participation Guidelines.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Effective Date: April 11, 1991.

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NOTICE: As provided in § 9-6.14:22 of the Code of Virginia, this regulation is not being republished. It was adopted as it was proposed in 7:4 V.A.R. 483-484 November 19, 1991.

# STATE CORPORATION COMMISSION

AT RICHMOND, FEBRUARY 6, 1991

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS900351

Ex Parte: In the matter of adopting  
Rules Governing Private Review Agents

## ORDER SETTING HEARING

WHEREAS, by order entered herein October 23, 1990, the Commission ordered that a hearing be held in the Commission's Courtroom on November 27, 1990, for the purpose of considering the adoption of Rules Governing Private Review Agents;

WHEREAS, the Commission conducted the aforesaid hearing and determined that, based on the comments received at the hearing, the record should remain open until December 14, 1990 for interested parties to file additional comments to the Regulation;

WHEREAS, the Commission further ordered that the Bureau of Insurance prepare a response to all of the comments of interested parties and file such response together with the Bureau's recommendations with respect to possible amendments to the regulation on or before January 31, 1991;

WHEREAS, on January 31, 1991, the Bureau of Insurance filed its response to the comments of interested parties with the Clerk of the Commission; and

THE COMMISSION, having considered the response of the Bureau of Insurance and the Bureau's recommended amendments to the regulation, is of the opinion that a hearing should be held to consider the adoption of the regulation, as amended;

### THEREFORE, IT IS ORDERED:

- (1) That the proposed regulation entitled "Rules Governing Private Review Agents", as amended, be appended hereto and made a part hereof, filed and made a part of the record herein;
- (2) That a hearing be held in the Commission's Courtroom, 13th Floor, Jefferson Building, Bank and Governor Streets, Richmond, Virginia at 10:00 a.m. on March 6, 1991, for the purpose of considering the adoption of the amended proposed regulation, at which time and place all interested persons may appear and be heard with respect to the amended proposed regulation;
- (3) That an attested copy hereof, together with a copy of the amended proposed regulation, be sent by the Clerk of the Commission to Mark E. Rubin, Esquire,

Shuford, Rubin, Gibney & Dunn, P.O. Box 675, Richmond, Virginia 23206; Susan C. Ward, Director of Legal & Regulatory Affairs, Virginia Hospital Association, P.O. Box 31394, Richmond, Virginia 23294; Craig T. Merritt, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, 909 East Main Street, Richmond, Virginia 23219-3095; Michael E. Henry, President, Capp Care, 17390 Brookhurst, Suite 280, Fountain Valley, California 92708-3720; Robert K. Yass, Legislative Director, The Travelers Companies, One Tower Square, Hartford, Connecticut 06183-1060; John J. Madigan, Vice President, Medical Claims Review Services, Inc., 7910 Woodmont Avenue, Suite 700, Bethesda, Maryland, 20814-3015; Margaret Diener, Vice President of Operations, HealthCare COMPARE, 3200 Highland Avenue, Downers Grove, Illinois 60515-1223; Gail M. Thompson, Legislative Affairs Representatives, BC/BS of the National Capital Area, 550 12th Street, S.W., Washington, D.C. 20065; Allen C. Goolsby, Esquire, Hunton & Williams, P.O. Box 1535; Richmond, Virginia 23219, John W. Ashenfelter, Esquire, Assistant Counsel, State Farm Mutual Automobile Insurance Companies, One State Farm Plaza, Bloomington, Illinois 61710; Jan Perry, Esquire, Assistant Counsel, Allstate Insurance Company, Law & Regulation Division (ES), Northbrook, Illinois 60062; Richard W. Gorenflo, Vice President, Regulatory Affairs, Mid Atlantic Medical Services, Inc., 4 Taft Court, Rockville, Maryland 20850; Carolyn N. Chrisman, Senior Vice President, Optima Health Plan, 6015 Poplar Hall Drive, Suite 100, Norfolk, Virginia 23502; Joseph J. Kempf, Jr., Assistant Legal Director, Aetna Employee Benefits Division, 151 Farmington Avenue - MC63, Hartford, Connecticut 06156; Terri Pointer, Richmond Area Quality Assurance Professionals, P.O. Box K-70, Richmond, Virginia 23288; Sally Duran, President, Virginia Association of HMO's, P.O. Box 31353, Richmond, Virginia 23294; Terrence E. Dwyer, Executive Director, Medical Society of Virginia Review Organization, P.O. Box K70, Richmond, Virginia 23288; Joan M. Gardner, Esquire, BC/BS of Virginia, P.O. Box 27401, Richmond, Virginia 23279; Regina G. Jamerson, Health Insurance Association of America, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036-3998; Marguerite A. Snyder, Director of Government Affairs, American Managed Care and Review Association, 1227 - 25th Street, N.W., Suite 610, Washington, D.C. 20037; Debbie L. Scheff, Health Cost Consultants, Inc., 1945 Old Gallows Road, Vienna, Virginia 22120; E. Daniel Kay, Jr., M.D., Psychiatric Society of Virginia, 4037 Taylor Road, Chesapeake, Virginia 23321; Philip B. Morris, Esquire, Morris & Morris, 1200 Ross Building, 801 East Main Street, Richmond, Virginia 23219; and deliver a copy to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who shall forthwith give further notice of the amended proposed regulation and hearing by mailing a copy of this order together with a copy of the amended proposed regulation to all insurers licensed to sell accident and sickness insurance and property and casualty

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insurance in the Commonwealth of Virginia; and

(4) That the Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (3) above.

## RULES GOVERNING PRIVATE REVIEW AGENTS

### § 1. Authority.

This regulation is issued pursuant to the authority vested in the Commission under §§ 38.2-223, 38.2-4214, 38.2-4319 and 38.2-5300 through 38.2-5309 of the Code of Virginia.

### § 2. Purpose.

The purpose of this regulation is to implement §§ 38.2-5300 through 38.2-5309 of the Code of Virginia with respect to private review agents.

This regulation is designed to:

- (a) provide minimum qualifications for private review agents *operating in this Commonwealth* ;
- (b) provide guidelines for the protection of consumers regarding the confidentiality of medical records; and
- (c) promote the delivery of quality health care in a cost effective manner.

### § 3. Effective date.

This regulation shall be effective on January July 1, 1991.

### § 4. Scope.

This regulation applies to all private review agents performing utilization review in this Commonwealth. This regulation does not apply to insurers, health services plans, hospital service corporations, preferred provider organizations, or health maintenance organizations conducting reviews solely for their own insureds, subscribers, members, or enrollees. This regulation does not apply to a private review agent ~~performing in its conduct of~~ utilization review for self-insured groups or a private review agent ~~that operates under in its fulfillment of~~ a contract with the federal government for utilization review of patients eligible for hospital services under Title XVIII of the Social Security Act or ~~under in its fulfillment of~~ a contract with a plan otherwise exempt from operation of Chapter 53 of Title 38.2 §§ 38.2-5300 et seq. pursuant to the Employee Retirement Income Security Act of 1974. *This regulation does not apply to utilization review conducted in Worker's Compensation claims or bodily injury liability claims, including uninsured motorist claims.*

### § 5. Definitions.

For the purposes of this regulation:

A. "Adverse decision" means a utilization review determination by the private review agent that a health service given or proposed to be given was or is not necessary, appropriate, or efficient when such determination may result in non-coverage of the health services.

B. "Attending physician" means the physician with primary responsibility for the care subject to review.

C. "Business days" means all days other than weekends and legal holidays.

A. D. "Certificate" means a certificate of registration granted by the Commission to a private review agent.

B. "Physician advisor" means a physician licensed to practice medicine who provides medical advice or information to a private review agent in connection with its utilization review activities.

C. "Private review agent" means a person or entity performing utilization review, except that the term shall not include an insurer, health services plan, hospital service corporation, preferred provider organization, or health maintenance organization conducting reviews solely for its own insureds, subscribers, members, or enrollees.

D. "Utilization review" means a system for reviewing the necessity, appropriateness and efficiency of hospital, medical or other health care resources provided or to be provided to a patient or group of patients for the purpose of determining whether such services should be covered or provided by an insurer, health services plan, health maintenance organization or other entity or person.

E. "Utilization review program" means a program for conducting utilization review by a private review agent.

E. "Final denial" means a utilization review determination by the private review agent that a health service given or proposed to be given, was or is not necessary, appropriate, or efficient when such determination may result in non-coverage of the health service. Final denial means "adverse decision."

F. "Initial adverse recommendation" means a reviewer's recommendation, made prior to providing the attending physician a reasonable opportunity to consult with a physician advisor, that an adverse decision be issued.

F. G. "Insurer" means an insurance company, health services plan, health maintenance organization, preferred provider organization or multiple employer welfare arrangement.

G. "Operating in the Commonwealth" H. Operating in this Commonwealth" means providing utilization review services affecting insureds, subscribers, members or

enrollees covered under a contract with respect to an insurance or subscription contract issued for delivery and or delivered in Virginia.

I. "Peer" means a person who has an equivalent degree of education, skill and licensure as another.

J. "Physician advisor" means a physician licensed to practice medicine who provides medical advice or information to a private review agent in connection with its utilization review activities.

K. "Private review agent" means a person or entity performing utilization review, except that the term shall not include an insurer, health services plan, hospital service corporation, preferred provider organization, or health maintenance organization conducting reviews solely for its own insureds, subscribers, members, or enrollees.

L. "Provider" means an individual or organization that provides personal health services.

M. "Staff" means individuals employed or under contract to perform utilization review on behalf of a private review agent.

N. "Utilization review" means a system for reviewing the necessity, appropriateness and efficiency of hospital, medical or other health care resources provided or to be provided to a patient or group of patients for the purpose of determining whether such services should be covered or provided by an insuror, health services plan, health maintenance organization or other entity or person. "Utilization review" shall include, but not be limited to, preadmission, concurrent and retrospective medical necessity determination and review related to the appropriateness of the site at which services were or are to be delivered. "Utilization review" shall not include review of issues concerning insurance contract coverage or contractual restriction on facilities to be used for the provision of services or any review of patient information by an employee of or consultant to any licensed hospital for patients of such hospital.

O. "Utilization review program" means a program for conducting utilization review by a private review agent.

## § 6. Certificates to perform utilization review.

A. Beginning ~~January~~ July 1, 1991, a private review agent not operating in this Commonwealth shall obtain a certificate from the Commission prior to operating in this Commonwealth.

B. Private review agents operating in this Commonwealth prior to the effective date of this regulation shall submit an application for a certificate on or before ~~January~~ July 1, 1991.

C. An applicant for a certificate shall pay an application fee and shall submit an application to the Commission on

the forms or in the manner prescribed by the Commission. The applicant shall also submit the following information required by § 38.2-5302 of the Code of Virginia:

(1). A description of the procedures to be used in evaluating proposed or delivered hospital, medical or other health care services;

(2). The procedures by which patients or providers may seek reconsideration of determinations by private review agents;

(3). The type and qualifications of the personnel staff either employed or under contract to perform the utilization review;

(4). Procedures and policies which ensure that patient-specific medical records and information shall be kept strictly confidential except as authorized by the patient or by § 11 of this regulation; and

(5). Assurances that reviewers will be readily accessible by telephone to patients and providers at least forty hours per week during normal business hours.

## § 7. Fee for certificate.

A. Every private review agent shall pay an application fee of five hundred dollars and a biennial renewal fee of five hundred dollars to the Commission. Each certificate shall expire on June 30 of the appropriate year. An interim license shall be issued for the period beginning January 1, 1990, and ending June 30, 1991. The fee for the interim license shall be two hundred and fifty dollars. Prior to June April 1 of the renewal year, each private review agent shall remit a renewal application form and fee to the Commission.

B. The Commission may refuse to issue a certificate to a private review agent and may suspend or revoke the certificate of any certificate holder whenever it finds that the applicant or certificate holder: The Commission may refuse to issue an agent's certificate to any person and, in addition to or in lieu of a penalty imposed under § 38.2-218, may suspend or revoke the certificate of any certificate holder whenever it finds that the applicant or certificate holder:

(1). has failed to meet or maintain the requirements of § 38.2-5302;

(2). has violated any sections of this regulation;

(3). has failed to adhere to its procedures as submitted to the Commission;

(4). has violated any provisions of any law of this Commonwealth applicable to private review agents; or

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(5). has been guilty of fraudulent or dishonest practices.

C. A certificate issued to a private review agent shall authorize him to act as a private review agent until his certificate expires or is otherwise terminated, suspended or revoked. The Commission shall not revoke or suspend an existing certificate until the certificate holder is given an opportunity to be heard before the Commission. If the Commission refuses to issue a new certificate or proposes to revoke or suspend an existing certificate it shall give the applicant or certificate holder at least ten days' notice in writing of the time and place of the hearing if a hearing is requested. The notice shall contain a statement of the objections to the issuance of the certificate or the reason for its proposed revocation or suspension, as the case may be. The notice may be given to the applicant or certificate holder by registered or certified mail sent to the last known address of record. The Commission may summon witnesses to testify with respect to the applicant or certificate holder and the applicant or certificate holder may introduce evidence in its behalf. No applicant to whom a certificate is refused after a hearing, nor any certificate holder whose certificate is revoked shall again apply for a certificate until after the time, not exceeding two years, the Commission prescribes in its order.

## § 8. Minimum qualifications of staff.

A. The personnel of a private review agent responsible for making decisions regarding the appropriateness of care shall, as a minimum, consist of medical record technicians with credentials equal to or exceeding those of Accredited Record Technicians (ART) as awarded by the American Medical Record Association. Other personnel making decisions regarding the appropriateness of care may include registered nurses, licensed practical nurses, or physicians licensed to practice by the appropriate jurisdiction. Other practitioners such as podiatrists, clinical social workers, and psychologists, licensed in the appropriate jurisdiction, may also make decisions regarding the appropriateness of care. The staff of a private review agent responsible for making utilization review decisions (including non-adverse decisions) shall have qualifications equivalent to or exceeding those of Accredited Record Technicians (ARTs) as awarded by the American Medical Record Association. Staff of a private review agent responsible for making utilization review decisions shall be licensed in the appropriate jurisdiction.

B. The private review agent shall have available the services of a sufficient number of medical records technicians, licensed practical nurses, and registered nurses, or other similarly qualified professionals, supported and supervised by appropriate licensed physicians, to carry out its utilization review activities. The staff shall include physicians in appropriate specialty areas including, but not limited to neurology, cardiology, and psychiatry. The physicians shall be certified by the appropriate board within the American Boards of Medical Specialists. The physician staff shall include physicians who are Board

Certified and/or Board Eligible.

## § 9. Adverse decisions.

A. Any case where there is a potential adverse decision must be reviewed by a physician on the staff of the private review agent. The reviewing physician must be licensed in the same field of practice as the attending physician. With the exception of adverse decisions made on the basis of retrospective review, prior to the issuance of an adverse decision made on the basis of clinical reasons, the case in question must be reviewed by a physician advisor or by a peer of the provider individual proposing the care. In addition, to the extent appropriate, the case in question must be reviewed in consultation with a physician advisor with experience in the same field of practice as the attending physician. The physician advisor or peer must be on the staff of the private review agent.

B. An initial adverse recommendation must be communicated by the reviewing physician to the attending physician prior to the issuance of a final denial. With the exception of retrospective reviews, the private review agent must make a reasonable attempt to communicate an initial adverse recommendation to the attending physician prior to the issuance of a final denial. With the exception of retrospective reviews, the private review agent must provide the attending physician a reasonable opportunity to consult with a physician advisor prior to the issuance of a final denial.

C. Written notification of an adverse recommendation decision shall be given to the provider individual and provider organization and shall include the type of review performed, the reason for the adverse recommendation decision, the alternate length or type of treatment that the private review agent deems to be appropriate, the alternate length of treatment or the alternate treatment setting(s), if any, that the private review agent deems to be appropriate, the nature of the health care criteria upon which the decision was based, and the opportunity for an appeal a description of the appeal process. The private review agent shall not recommend alternate health care an alternate treatment setting if that alternate care alternate treatment setting is not available to the insured within a reasonable distance of the insured's home. Written notification of an adverse decision shall be given to the patient and shall include a description of the appeal process. The description of the appeal process shall include relevant information including, but not limited to, time limits, addresses, and telephone and facsimile numbers. The insurer who contracts with the private review agent for utilization review may fulfill the notification requirements for the private review agents.

## § 10. Appeals of adverse decisions.

A. Private review agents shall include in their procedures, an appeal process that can be utilized when a determination is made not to certify an admission or extension of stay an adverse decision is made. Hospitals

and physicians Providers shall have the right to notify the patient of any determination not to certify the admission adverse decision and the physician of record provider individual or provider organization may file an appeal on behalf of the patient. A private review agent and/or insurer may set a period of time after notification of an adverse decision within which an appeal must be filed. A written description of the appeal process shall be furnished to the insured and attending physician. The description of the process shall include relevant information including, but not limited to time limits, addresses, and telephone and facsimile numbers.

B. Each private review agent shall establish an appeals committee to hear and reconsider any adverse decision that is appealed by an insured, his representative, or his provider. The appeals committee shall include at least one provider who is practicing the same health care specialty as the provider that renders or proposes to render health care to the insured and who did not participate in the adverse decision being appealed. Any case under appeal shall be reviewed by a physician advisor or peer of the provider individual who proposes the care under review or who was primarily responsible for the care under review. With the exception of expedited appeals, physician advisors who review cases under appeal must be Board Certified or Board Eligible and must be specialized in a discipline pertinent to the issue under review. Those who review cases under appeal must not have participated in the adverse decision being appealed.

C. When an initial determination not to certify a service adverse decision is made during ongoing therapy and the physician of record attending physician believes that the determination warrants immediate appeal, the physician of record attending physician shall have an opportunity to appeal that determination by telephone on an expedited basis. Private review agents shall provide for reasonable access to their consulting physician(s) for such appeals. Private review agents shall provide for reasonable access by providers to their physician advisor(s) for such appeals. Both providers of care and private review agents shall attempt to share the maximum information by telephone, facsimile machine, or otherwise to satisfactorily resolve the expedited appeal. Expedited appeals which cannot resolve a difference of opinion may be reconsidered in the standard appeals process. The private review agent shall make decisions on expedited appeals within four business days of receiving all pertinent information.

D. For appeals not subject to subsection C, appeals will be made in writing or telephonically by the process established by the private review agent. Private review agents shall transmit their determination on the appeal as soon as practicable, but in no case more than 30 days after receiving the required documentation on an appeal. The required documentation may include among other things, copies of part or all of the medical record and/or a written statement from the physician of record provider. The private review agent shall provide that such documentation be reviewed by a physician advisor or peer

of the provider individual who proposes the care under review or who was primarily responsible for the care under review. A private review agent and/or claim administrator may set a period of time after notification of a determination within which an appeal must be filed. A physician of record provider who has been unsuccessful in overturning a determination not to certify an adverse decision has the right to request of the private review agent the medical basis for that determination. The private review agent shall furnish the support for that determination within five business days.

E. The private review agent shall provide an opportunity for the appellant to present additional evidence and arguments during the course of the hearing appeal. Before rendering a final decision, the committee shall review the pertinent medical records of the insured's provider and the pertinent records of any facility in which health care is provided to the insured. When an insured, his representative, or his provider requests an expedited appeal, the private review agent shall make such appeal proceeding, including access to its consulting providers, available within 72 hours after the request and make decisions not less than one working day after the date of the hearing of the expedited appeal. Before rendering an appeal decision, the private review agent shall review such pertinent medical records as it has requested from or have been submitted by the patient's provider.

§ 11. Access to and confidentiality of medical records and information.

A. Private review agents who have been granted a certificate by the Commission shall have reasonable access to patient specific medical records and information.

A. B. The private review agent's procedures shall specify that specific information exchanged for the purpose of conducting review will be considered confidential, be used by the private review agent solely for the purposes of utilization review, and shared by the private review agent with only those parties who have authority to receive such information, such as the claim administrator. The private review agent's process shall specify that procedures are in place to assure confidentiality and that the private review agent agrees to abide by any Federal and State laws governing the issue of confidentiality. Summary data which does not provide sufficient information to allow identification of individual patients or providers need not be considered confidential.

B. C. When consistent with the above and Federal and State statutes and regulations, patient specific data gathered by the private review agent which raises questions of deficiencies in quality may be shared with the hospital's or outpatient surgical facility's Quality Assurance Committee with appropriate signed release including, but not limited to, patients or their representatives. Prior to the sharing of such information, a private review agent may require the hospital or outpatient surgical facility to assure compliance with confidentiality requirements, to

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assure the appropriate review and follow-up within that hospital's or outpatient facility's Quality Assurance Committee, and to indemnify the private review agent from inappropriate use of such information.

C. Prior to the release of patient specific information to a private review agent, a patient shall provide written consent to the private review agent. The information release forms signed by or on behalf of a patient at the time of treatment by a hospital or physician shall be modified, if necessary, to clarify the provider's right to release medical information telephonically and in writing for utilization review purposes. Hospitals and physicians may reserve the right to discuss the release of sensitive information to a private review agent with the patient.

D. Chapter 6 of Title 38.2 shall govern the release of patient specific information to a private review agent. If the patient will not authorize the release of information, or has refused to sign the release of information forms, the private review agent, upon receipt of written notice thereof, may then follow its own policy or that of the insurer regarding that refusal.

D. E. Medical records and patient specific information shall be maintained by the private review agent in a secure area with access limited to essential personnel only.

E. F. Documents relating to claims shall be retained by private review agents for at least five years. Information generated and obtained by private review agents in the course of utilization review shall be retained for at least five years if the information relates to a case for which an adverse decision was made at any point or if the information relates to a case which may be reopened.

## § 12. Accessibility.

A. A private review agent shall provide free telephone access to insureds patients and providers at least 40 hours per week during normal business hours. Insurers using private review agents located outside of the eastern time zone must provide insureds advance written notification of the eastern time zone hours during which those entities are accessible; provided that such hours shall be no less than 40 hours per week. Private review agents must have a mechanism for informing patients and providers of the eastern time zone hours during which those agents are accessible; such eastern time zone hours shall be no less than 40 hours per week.

B. It is the responsibility of the private review agent to install and maintain an adequate telephone system that must include, among other features, the abilities to monitor downtime in the telephone system, track lost calls, and accept and record incoming calls outside of normal business hours. It is the responsibility of the private review agent to install and maintain an adequate telephone system that must include, among other features, the abilities to monitor downtime in the telephone system, and accept and record messages or accept and provide

recorded business hour information for incoming calls outside of normal business hours.

C. The Commission may determine, upon written request, that other telephone systems are adequate in special circumstances.

## § 13. Examination of private review agents.

A. The Commission may conduct reviews of the operations of private review agents operating in this Commonwealth to determine if the private review agent is operating in compliance with this regulation and Chapter 53 of Title 38.2 §§ 38.2-5300 et seq. of the Code of Virginia. The reviews may include telephone audits to determine if the private review agents are accessible as required by this regulation.

B. The Commission may investigate any complaint from a health care provider or insured patient regarding the conduct or operation of a private review agent that is governed by compliance of a private review agent with the requirements of this regulation or Chapter 53 of Title 38.2 §§ 38.2-5300 et seq. of the Code of Virginia.

C. The investigation of private review agents shall not include determinations of medical necessity, appropriate charges for covered services or any other areas not addressed by this regulation or Chapter 53 of Title 38.2 §§ 38.2-5300 et seq. of the Code of Virginia. The investigation of private review agents shall not include individual determinations of medical necessity or appropriate charges for covered services. If there is evidence which indicates an alleged pattern of misconduct with respect to utilization review performed by a private review agent, the Commission may take such action it deems appropriate to correct such pattern of misconduct.

## § 14. Severability.

If any provision of this regulation or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of this regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

\* \* \* \* \*

AT RICHMOND, FEBRUARY 5, 1991

COMMONWEALTH OF VIRGINIA

CASE NO. MCA900050

At the relation of the

STATE CORPORATION COMMISSION  
Ex parte: In re, Promulgation  
of regulations relating to Road Tax  
on Motor Carriers

ORDER SETTING HEARING

# State Corporation Commission

On July 30, 1990, the State Corporation Commission published a General Notice to the public of proposed regulations to establish consistent procedures for motor carriers to follow for: (1) filing motor fuel road tax reports, (ii) computing motor fuel road tax liability, and (iii) maintaining records of fuel consumption and mileage accumulation. In response to the publication of the proposed regulations, comments, objections, and requests for hearing were filed.

In consideration of the comments and objections, the Staff of the Motor Carrier Division of the State Corporation Commission has proposed amendments to the published regulations; Accordingly

## IT IS ORDERED:

(1) That the proposed regulations be, and the same are hereby, amended as shown in Appendix A attached hereto;

(2) That a public hearing to present evidence, receive comments and objections to the amended regulations be docketed and set for hearing before the State Corporation Commission in its 13th Floor Courtroom in the Jefferson Building, Bank and Governor Streets, Richmond, Virginia at 10:00 a.m. on March 26, 1991;

(3) That an attested copy of this order be mailed by the Clerk of the Commission to all parties who have filed written responses, comments, objections or requests for hearings in this proceeding, as shown by Appendix B attached hereto.

\* \* \* \* \*

AT RICHMOND, FEBRUARY 7, 1991

## APPLICATION OF

ONE CALL CONCEPTS, INC.

CASE NO. PUE900062

For a certificate to operate as a notification center pursuant to § 56-265.16:1 of the Code of Virginia

## ORDER PRESCRIBING NOTICE

On October 26, 1990, One Call Concepts, Inc. filed an application seeking to be certificated as the notification center for the areas in Virginia encompassed by the counties of Accomack, Arlington, Clarke, Fairfax, Fauquier, Frederick, Loudoun, Northampton, Prince William, Shenandoah, Stafford, and Warren, pursuant to the provisions of § 56-265.16:1 of the Code of Virginia. The Commission is of the opinion that the Application should be docketed and that notice should be offered to the public. Accordingly,

IT IS THEREFORE ORDERED:

(1) This matter is hereby docketed and assigned Case No. PUE900062;

(2) That One Call Concepts provide direct first-class mail notice of its Application to the Chairman of the Board of Supervisors of each county and on the mayor or manager of every city and town (or on equivalent officials in counties, towns and cities having alternate forms of government) in which One Call Concepts intends to serve;

(3) That the notice referred to in (2) above must, as a minimum, contain the following language:

NOTICE TO THE PUBLIC OF AN APPLICATION BY ONE CALL CONCEPTS, INC. TO SERVE AS A NOTIFICATION CENTER ("MISS UTILITY") CENTER FOR THE AREAS OF VIRGINIA NORTH OF THE RAPPAHANNOCK RIVER AND FOR THE COUNTIES OF NORTHAMPTON AND ACCOMACK - CASE NO. PUE900062

On October 26, 1990, One Call Concepts, Inc. pursuant to the provisions of § 56-265.16:1 of the Code of Virginia, filed an Application with the Virginia State Corporation Commission to be the designated notification center for the areas of Virginia encompassed by the counties of Accomack, Arlington, Clarke, Fairfax, Fauquier, Frederick, Loudoun, Northampton, Prince William, Shenandoah, Stafford, and Warren. The notification center will serve as the one call clearinghouse for all contractors or excavators who need to have utilities and others mark their underground lines before digging in the vicinity of those lines.

Copies of the Application can be obtained from the Commission's Document Control Center, Floor B-1, Jefferson Building, Bank and Governor Streets, Richmond, Virginia 23219, Monday through Friday, open 8:15 a.m. to 5:00 p.m. or can be ordered from James L. Holzer, General Manager, One Call Concepts, Inc., 14504 Greenview Drive, Suite 300, Laurel, Maryland 20708.

Comments, objections, or requests for a hearing concerning the Application may be filed with the Commission on or before March 25, 1991. Such comments, objections or requests for hearing should be addressed to Mr. William J. Bridge, Clerk, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216 and should refer to Case No. PUE900062.

ONE CALL CONCEPTS, INC.

(4) That copies of the above notice be served by first-class mail on utilities known to operate in the area in which One Call Concepts intends to serve. Addresses of certificated utilities are attached hereto as Appendices A-E;

# State Corporation Commission

(5) That a copy of this Order be published in the Virginia Register;

(6) That if no substantive objections are received concerning the Application on or before March 25, 1991, the Commission may issue its final order herein without the necessity of a public hearing; and

(7) That One Call Concepts file proof of the notices required by (2) and (4) on or before March 25, 1991.

An attested copy hereof shall be sent by the Clerk of the Commission to: Mr. James L. Holzer, General Manager, One Call Concepts, Inc., 14504 Greenview Drive, Suite 300, Laurel, Maryland, 20708; Office of the Attorney General, Division of Consumer Counsel, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; the Commission's Office of General Counsel; and to the Commission's Divisions of Communications and Energy Regulation.

\* \* \* \* \*

AT RICHMOND, FEBRUARY 7, 1991

## APPLICATION OF

VIRGINIA UNDERGROUND UTILITY  
PROTECTION SERVICE,  
INCORPORATED

CASE NO. PUE900068

For a certificate to operate  
as a notification center pursuant  
to § 56-265.16:1 of the Code  
of Virginia

### ORDER PRESCRIBING NOTICE

On December 17, 1990, the Virginia Underground Utility Protection Service, Incorporated ("Applicant" or "Service") filed an application seeking to be certificated as the notification center for all the areas in Virginia other than the areas encompassed by the Counties of Accomack, Arlington, Clarke, Fairfax, Fauquier, Frederick, Loudoun, Northampton, Prince William, Shenandoah, Stafford and Warren, pursuant to the provisions of § 56-265.16:1 of the Code of Virginia. The Commission is of the opinion that the Application should be docketed and that notice should be offered to the public. Accordingly,

#### IT IS THEREFORE ORDERED:

(1) This matter is hereby docketed and assigned Case No. PUE900068;

(2) That Service provide direct first-class mail notice of its Application to the Chairman of the Board of Supervisors of each county and on the mayor or manager of every city and town (or on equivalent officials in counties, towns and cities having alternate forms of government) in which Service intends to serve;

(3) That the notice referred to in (2) above must, as a minimum, contain the following language:

NOTICE TO THE PUBLIC OF AN APPLICATION BY  
VIRGINIA UNDERGROUND UTILITY  
PROTECTION SERVICE INCORPORATED TO  
SERVE AS A NOTIFICATION CENTER ("MISS  
UTILITY") CENTER FOR THE AREAS OF  
VIRGINIA SOUTH OF THE COUNTIES OF  
SHENANDOAH, WARREN, FAUQUIER, AND  
STAFFORD - CASE NO. PUE900068

On December 17, 1990, Virginia Underground Utility Protection Service, Incorporated, pursuant to the provisions of § 56-265.16:1 of the Code of Virginia, filed an Application with the Virginia State Corporation Commission to be the designated notification center for all the areas of Virginia not encompassed by the Counties of Accomack, Arlington, Clarke, Fairfax, Fauquier, Frederick, Loudoun, Northampton, Prince William, Shenandoah, Stafford and Warren. The notification center will serve as the one call clearinghouse for all contractors or excavators who need to have utilities and others mark their underground lines before digging in the vicinity of those lines.

Copies of the Application can be obtained from the Commission's Document Control Center, Floor B-1, Jefferson Building, Bank and Governor Streets, Richmond, Virginia 23219, Monday through Friday, open 8:15 a.m. to 5:00 p.m. or can be ordered from Mark C. Christie, Esquire, P.O. Box 23041, Richmond, Virginia 23223.

Comments, objections, or requests for a hearing concerning the Application may be filed with the Commission on or before March 25, 1991. Such comments, objections or requests for hearing should be addressed to Mr. William J. Bridge, Clerk, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216 and should refer to Case No. PUE900068.

#### VIRGINIA UNDERGROUND UTILITY PROTECTION SERVICE, INCORPORATED

(4) That copies of the above notice be served by first-class mail on utilities known to operate in the area in which Service intends to serve. Addresses of certificated utilities are attached hereto as Appendices A-E;

(5) That a copy of this Order be published in the Virginia Register;

(6) That if no substantive objections are received concerning the Application on or before March 25, 1991, the Commission may issue its final order herein without the necessity of a public hearing; and

(7) That Service file proof of the notices required by

# State Corporation Commission

(2) and (4) on or before March 25, 1991.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Mark C. Christie, Esquire, P.O. Box 23041, Richmond, Virginia 23223; Office of the Attorney General, Division of Consumer Counsel, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Divisions of Communications and Energy Regulation.

## BUREAU OF INSURANCE

February 13, 1991

### ADMINISTRATIVE LETTER 1991-4

TO: ALL INSURERS LICENSED TO WRITE WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE

RE: ADMINISTRATIVE LETTER 1990-6 WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE RATE DEVIATIONS

Administrative Letter 1990-6, dated May 4, 1990, was mailed to all insurers licensed to write workers' compensation and employers' liability insurance. That letter identified the information required by the Bureau of Insurance to review proposed rate deviation filings and to monitor their impact.

After reviewing the deviation filings for the last six months, the Bureau has determined it can simplify the filing process, and insurers should now file for deviations using form VA WCD-1 (Rev. 1/91), attached.

Under Part I, the need for carriers to calculate assigned risk experience (calendar year ceded premiums and losses) has been eliminated by amending the NCCI loss ratios provided in Part VI to reflect voluntary business only. The instructions to calculate the adjustment for assigned risk experience (Part I-B), applicable only to servicing carriers, have also been revised.

Under Part IV, the formula for line (4) has been amended to reflect the adjustment for taxes, license and fees.

Finally Part VI values have been updated to reflect November 1, 1990 rates and the above revisions.

/s/ Steven T. Foster  
Commissioner of Insurance

RE: Requirements for Insurance Companies Filing Rate Deviations for Workers Compensation Insurance

This letter identifies the information required by the Bureau of Insurance to review proposed rate deviations.

Review by the Bureau will be expedited if filers provide their supporting information in the format indicated.

This letter also provides industry wide Virginia workers compensation experience and certain information underlying approved rates (See Part VI).

In order to facilitate review of proposed deviations by Bureau staff, it is required that deviations be divided into the following three components:

1. Deviation resulting from loss experience.
2. Deviation resulting from allowance for loss adjustment expense (as a percent of expected losses).
3. Deviation resulting from allowance for overhead expense (including any deviation resulting from a company's proposed change in allowance for underwriting profit and contingency).

An insurance company seeking approval of a rate deviation should submit completed PARTS I through V along with whatever additional information it feels appropriate. Its filing should be submitted to:

Property & Casualty Division  
Commonwealth of Virginia  
State Corporation Commission  
Bureau of Insurance  
P.O. Box 1157  
Richmond, Virginia 23209

STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE

Name of Insurance Company: \_\_\_\_\_  
Proposed Effective Date of Deviation: \_\_\_\_\_

PART I-A

ANALYSIS OF LOSS EXPERIENCE FOR ALL INSURERS  
PRIOR TO ADJUSTMENT FOR PART I-B  
(Note: Servicing Carriers must also complete Part I-B.)

(1) Calendar Year	(2) Virginia Standard Earned Premium	(3) Experience of Company: (omit 000's) Virginia Actual Incurred Losses	(4) Loss Ratio (3)/(2)
19__	_____	_____	_____
19__	_____	_____	_____
19__	_____	_____	_____
19__	_____	_____	_____
19__	_____	_____	_____
Total/Wgt.Avg.	_____	_____	_____

Notes:  
Col.(2) & (3) - Premium (at NCCI rate level) and losses in columns (2) and (3) should be the same as reported to NCCI on its Call for Calendar Year Experience for the Twelve Months Ending December 31 of each year.

Name of Insurance Company: \_\_\_\_\_  
Proposed Effective Date of Deviation: \_\_\_\_\_

PART I-B  
Page 1

ADJUSTMENT FOR ASSIGNED RISK EXPERIENCE  
(Applicable Only to Companies that are Servicing Carriers in Virginia of the National Workers Compensation Reinsurance Pool)

EARNED PREMIUM ONLY

(1) Calendar Year	(2) Virginia Net Earned Premium	(3) Experience Ceded by Company to the NWCRP: (omit 000's) Premium Discount Factor	(4) Virginia Standard Earned Premium
19__	_____	_____	_____
19__	_____	_____	_____
19__	_____	_____	_____
19__	_____	_____	_____
19__	_____	_____	_____
Total/Avg.	_____	_____	_____

Notes:  
Col.(2) - The Virginia Net Earned Premium should be the net earned premium that was reported by the Company to the National Workers Compensation Reinsurance Pool for the twelve months ending December 31 of each year.  
Col.(3) - The premium discount factor should be the premium discount underlying the net earned premium in Column (2). Companies may use the premium discount factors provided in Part VI, or their own if supporting data is submitted.  
Col.(4) - This is the net earned premium ceded to the pool adjusted to a standard premium level. It is calculated as Column (2)/(1.0-Column (3)).

Name of Insurance Company: \_\_\_\_\_  
 Proposed Effective Date of Deviation: \_\_\_\_\_

**PART I-B**  
 Page 2

**ADJUSTMENT FOR ASSIGNED RISK EXPERIENCE**  
 (Applicable Only to Companies that are Servicing Carriers in Virginia  
 for the National Workers Compensation Reinsurance Pool)

**INCURRED LOSSES ONLY**

(1) Calendar Year	(2) Experience Ceded by Company to the NWCRC: (omit 000's) Virginia Actual Incurred Losses	(3) Company IBNR	(4) Virginia Adjusted Incurred Losses
19__	_____	_____	_____
19__	_____	_____	_____
19__	_____	_____	_____
19__	_____	_____	_____
19__	_____	_____	_____
19__	_____	_____	_____
Total/Avg.	_____	_____	_____

**Notes:**

Col.(2) - The Virginia Actual Incurred Losses should be those losses reported by the Company to the National Workers Compensation Reinsurance Pool for the twelve months ending December 31 of each year.  
 Col.(3) - The Company IBNR should be the direct IBNR losses included in your Company's financial records for Virginia workers compensation assigned risks written by your Company.  
 Col.(4) - This is the total incurred losses, including IBNR, for Virginia workers compensation assigned risk business written by your company. It is calculated as Column (2) + Column (3).

Name of Insurance Company: \_\_\_\_\_  
 Proposed Effective Date of Deviation: \_\_\_\_\_

**PART I-C, Page 1**

**ANALYSIS OF LOSS EXPERIENCE**  
**AFTER ADJUSTMENT FOR VIRGINIA ASSIGNED RISK BUSINESS**

(1) Calendar Year	(2) Modified Virginia Standard Earned Premium	(3) Experience of Company: (omit 000's) Modified Virginia Actual Incurred Losses	(4) Modified Loss Ratio (3)/(2)	(5) NCCI Voluntary Virginia Loss Ratio
19__	_____	_____	_____	_____
19__	_____	_____	_____	_____
19__	_____	_____	_____	_____
19__	_____	_____	_____	_____
19__	_____	_____	_____	_____
Total/Wgt.Avg.	_____	_____	_____	_____

\* (Sum of [Col.(2) x Col.(5) for each year] / sum of Col.(2).

- a. Un-weighted Average Company Loss Ratio for Years 19\_\_, through 19\_\_, above \_\_\_\_\_
- b. Un-weighted Average NCCI Virginia Loss Ratio for same period as (a) \_\_\_\_\_
- c. Indicated Deviation Based on Loss Experience (a)/(b) \_\_\_\_\_
- d. Deviation Based on Loss Experience Proposed By Carrier (show as a factor) \_\_\_\_\_

Notes for Part I-C - See Part I-C, Page 2

PART I-C, Page 2

Notes for PART I-C

Col.(2) - Premium in column (2) should be the data reported on PART I-A, column (2) minus the data reported on PART I-B, page 1, column (4) for the Twelve Months Ending December 31 of each year.

Col.(3) - Losses in column (3) should be the data reported on PART I-A, column (3) minus the data reported on PART IB, page 2, column (4).

Col. (5) - See Part VI attachment for the NCCI Virginia Loss Ratios.

Line (a) - The carrier may select the number of years to include in item (a). However, total standard earned premium for all years shown (starting with the most current) must be at least \$50,000,000, or five years must be shown. The same years must be included in determining item (b).

Line (d) - Attach explanation if proposed deviation based on loss experience is outside of range defined by carrier's average difference in loss ratio [line (c)] and 1.000.

Name of Insurance Company: \_\_\_\_\_  
Proposed Effective Date of Deviation: \_\_\_\_\_

PART II

ANALYSIS OF LOSS ADJUSTMENT EXPENSE

(1)	(2)	(3)	(4)
Calendar Year	Incurred Losses	Experience of Company:	Ratio (3)/(2)
		(omit 000's) Incurred Loss Adjustment Expense	
19__	_____	_____	_____
19__	_____	_____	_____
19__	_____	_____	_____
Total/Avg.	_____	_____	_____

- a. Un-weighted Average Company Ratio of Incurred Loss Adjustment Expense to Incurred Losses for the last three calendar years. \_\_\_\_\_
- b. Allowance for Loss Adjustment Expense Underlying current Rates as a Ratio To Expected Losses. \_\_\_\_\_
- c. Indicated Deviation Based on Loss Adjustment Expense  $[1.0+(a)]/[1.0+(b)]$  \_\_\_\_\_
- d. Deviation Based on Loss Adjustment Expense Proposed By Carrier (show as a factor) \_\_\_\_\_

Notes:

Col.(2) - Virginia direct incurred losses (medical and indemnity). This data can be found on the insurer's response to the NCCI Call for Calendar Year Expense Data (item (5)).  
Col.(3) - Virginia allocated and un-allocated loss adjustment expenses. This data can be found on the insurer's response to the NCCI call for Calendar Year Expense Data (the sum of items (6) and (7)).  
Line (b) - See Part VI attachment for current allowance in manual rates.  
Line (d) - Attach explanation if proposed deviation based on loss adjustment expense is outside of range defined by carrier's average difference in loss adjustment expense [line (c)] and 1.000.

Name of Insurance Company: \_\_\_\_\_  
 Proposed Effective Date of Deviation: \_\_\_\_\_

PART III - Page 1

ANALYSIS OF ALLOWANCE FOR UNDERWRITING PROFIT & CONTINGENCY (P&C)

- a. Allowance for P&C (as a percent of earned premium) underlying Virginia current rates \_\_\_\_\_ %
- b. Allowance proposed by company as part of its filing for a deviation from NCCI manual rates \_\_\_\_\_ %

Special Note to Company - a company filing a deviation is only required to complete the remainder of this page and Part III, pages 2 & 3 if it is proposing to use an allowance for underwriting profit and contingency (P&C) other than the allowance currently approved for NCCI manual rates.

19\_\_\_\_ 19\_\_\_\_

- c. Pre-tax (Federal Income Tax) return on invested assets \_\_\_\_\_ %
- d. After tax return on invested assets \_\_\_\_\_ %
- e. Ratio of reserves (unearned premium reserve plus loss reserve) to surplus \_\_\_\_\_
- f. Target return on surplus as of effective date of proposed deviation \_\_\_\_\_ %

Notes:  
 Line (a) - See Part VI attachment for current allowance in manual rates.  
 Lines (c) and (d) - Average for all property and casualty lines for the year (two latest available years).  
 Line (e) - As of December 31, for all property and casualty business combined, show ratios to 2 decimal places (two latest available years).

Pages 2 & 3 - Show dollars in thousands. Show Virginia experience.

Name of Insurance Company: \_\_\_\_\_  
 Proposed Effective Date of Deviation: \_\_\_\_\_

PART III - Page 2

Collection and Payout Patterns  
 Policy Year Basis (omit 000's)

(see "special note" on Part III - page 1)

Time Interval in Years	Written Premium	Earned Premium	Collected Premium	Paid Loss & LAE Expenses	Taxes	Other Expenses
-1 to 0	_____	_____	_____	_____	_____	_____
0 to 1	_____	_____	_____	_____	_____	_____
1 to 2	_____	_____	_____	_____	_____	_____
2 to 3	_____	_____	_____	_____	_____	_____
3 to 4	_____	_____	_____	_____	_____	_____
4 to 5	_____	_____	_____	_____	_____	_____
5 to 6	_____	_____	_____	_____	_____	_____
6 to 7	_____	_____	_____	_____	_____	_____
7 to 8	_____	_____	_____	_____	_____	_____
8 to 9	_____	_____	_____	_____	_____	_____
9 to 10	_____	_____	_____	_____	_____	_____
10 to 11	_____	_____	_____	_____	_____	_____
11 to 12	_____	_____	_____	_____	_____	_____
12 to 13	_____	_____	_____	_____	_____	_____
13 to 14	_____	_____	_____	_____	_____	_____
14 to 15	_____	_____	_____	_____	_____	_____

Name of Insurance Company: \_\_\_\_\_  
 Proposed Effective Date of Deviation: \_\_\_\_\_

PART III - Page 3

Collection and Payout Patterns - Continued  
 Policy Year Basis (omit 000's)

(see "special note" on Part III - page 1)

Time Interval in Years	Written Premium	Earned Premium	Collected Premium	Paid Loss & LAE Expenses	Taxes	Other Expenses
15 to 16	_____	_____	_____	_____	_____	_____
16 to 17	_____	_____	_____	_____	_____	_____
17 to 18	_____	_____	_____	_____	_____	_____
18 to 19	_____	_____	_____	_____	_____	_____
19 to 20	_____	_____	_____	_____	_____	_____
20 to 21	_____	_____	_____	_____	_____	_____
21 to 22	_____	_____	_____	_____	_____	_____
22 to 23	_____	_____	_____	_____	_____	_____
23 to 24	_____	_____	_____	_____	_____	_____
24 to 25	_____	_____	_____	_____	_____	_____
Over 25	_____	_____	_____	_____	_____	_____

Name of Insurance Company: \_\_\_\_\_  
 Proposed Effective Date of Deviation: \_\_\_\_\_

PART IV - Page 1

ANALYSIS OF OVERHEAD EXPENSE

Expense Item:	(a)	(b)	(c)
	19__	Calendar Year: 19__	19__
1. Direct Net Production Expense	___ \$	___ \$	___ \$
2. Direct Net General Expense	___ \$	___ \$	___ \$
3. "Build-Back" for Premium Discount	___ \$	___ \$	___ \$
4. Estimated Expense Constant Income (show as a credit)	___ \$	___ \$	___ \$
5. Taxes, Licenses and Fees	___ \$	___ \$	___ \$
6. Underwriting Profit & Contingency Allowance	___ \$	___ \$	___ \$
7. Total Expenses [(1)+(2)+(3)+(4)+(5)+(6)]	___ \$	___ \$	___ \$
8. Unwgt'd. Avg. Provision for Overhead Expense $\{[(7a)+(7b)+(7c)]/3\}$	___ \$	___ \$	___ \$
9. Allowance for Overhead Expense Underlying Current Rates as a Percent of Standard Earned Premium After Adjustment to Reflect Carrier's Proposed Allowance For Underwriting Profit and Contingency $100.0\% - (x\% + y\% - \text{(PART III, Line b)})$			___ \$
10. Indicated Deviation Due to Expenses Based Upon Company's Overhead Expense Experience $[100\% - (9)] / [100\% - (8)]$			___
11. Deviation Based on Overhead Expense Proposed By Carrier (Show as a factor)			___

Notes for PART IV - see PART IV, Page 2

PART IV - Page 2

Notes for Part IV

Line (1) - The ratio of Commissions and Other Acquisition costs to Standard Earned Premium. The ratio is to be developed for the insurer for at least three years. The data can be found in the insurer's response to the NCCI Call for Calendar Year Expense Data (expenses equal the sum of items (4A) and (4B), premiums equal item (3)).

Line (2) - The ratio of General Expenses to Standard Earned Premium. The General Expense ratio is to be developed for the insurer for at least three years. The data can be found in the insurer's response to the NCCI Call for Calendar Year Expense Data (expenses equal the sum of items (8A) and (8B)), premiums equal item(3)).

Line (3) - The insurer should calculate a "Build-Back" (reflecting premium discounting) on its own premium size distribution. If an estimated "Build-Back" is utilized (Example: Based on a study of insurers with a similar premium size distribution), such should be explained, and supporting information and data provided.

Line (4) - Approximately equal to:  $\{[\text{Expense constant} \times \# \text{ of Virginia policies}] \times [100\% - (1) - (5) - (6)]\} / \text{Standard Earned Premium.}$

Line (5) - Provide supporting documentation on those values not set by statutes.

Line (6) - From PART III, Line (b). This is the filing company's proposed allowance for profit and contingency.

Line (9) - "x" is permissible loss and loss adjustment ratio underlying current manual rates.  
"y" is allowance for profit and contingency underlying current manual rates.

See Part VI attachment for values of "x" and "y".

Line (11) - Attach explanation if proposed deviation based on overhead expense is outside of range defined by carrier's average data [line (10)] and 1.000.

Name of Insurance Company: \_\_\_\_\_  
Proposed Effective Date of Deviation: \_\_\_\_\_

PART V

SUMMARY OF PROPOSED DEVIATION  
& GENERAL INFORMATION

(Note: lines 1, 2 and 3 are to be shown as factors)

1. Deviation based upon loss experience (from PART I-C, lines (c) and (d)) Proposed \_\_\_\_\_ Indicated \_\_\_\_\_
2. Deviation based upon provision for loss adjustment expense [PART II, lines (c) and (d)] Proposed \_\_\_\_\_ Indicated \_\_\_\_\_
3. Deviation based upon provision for overhead expense (including provision for underwriting profit and contingency) [PART IV, lines (10) and (11)] Proposed \_\_\_\_\_ Indicated \_\_\_\_\_
4. Deviation proposed/indicated (1)x(2)x(3) Proposed \_\_\_\_\_ Indicated \_\_\_\_\_
5. Deviation as a percent change from Virginia manual rates Proposed \_\_\_\_\_ % Indicated \_\_\_\_\_ %
6. Current approved deviation from manual rates \_\_\_\_\_ %
7. Effective date of current deviation \_\_\_\_\_
8. Person to contact for information on this proposed deviation:

Name & Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Part VI

\* VALUES TO ASSIST COMPLETION OF PARTS I-V

<u>Information Applicable to:</u>	<u>Item</u>
Part I-C, Col. (5)	NCCI Voluntary Virginia Loss Ratios:
	1985            0.698
	1986            0.726
	1987            0.675
	1988            0.703
	1989            0.734
Part I-B - Page 1, Col. (3)	Premium Discount Factors
	1985            0.030
	1986            0.040
	1987            0.047
	1988            0.054
	1989            0.057
Part II, line (b)	Allowance for loss adjustment expense underlying current rates as a ratio to expected losses effective 11/1/90 is <u>.104</u>
Part III, line (a)	Allowance for profit and contingency (as a percent of earned premium) underlying Virginia rates effective 11/1/90 is <u>-10.619%</u>
Part IV - Page 1, line (9)	Effective 11/1/90: "x" = 86.717% "y" = -10.619%

Issued by the Bureau of Insurance: January 1991

\* These values are based on the November 1, 1990 rates approved by the Commission. It is the responsibility of the insurer to use the most current values when filing for a deviation.

# STATE LOTTERY DEPARTMENT

## DIRECTOR'S ORDER NUMBER FOUR (91)

### SPECIAL ON-LINE LICENSING PROGRAM FOR NORTHERN VIRGINIA RETAILERS

In accordance with the authority granted by §§ 58.1-4001 and 58.1-4006A of the Code of Virginia, I hereby publish criteria for the special on-line licensing program for Northern Virginia retailers, as provided by § 2 3 B of State Lottery Department On-Line Game Regulations, VR 447-02-2. The purpose of the program is to recognize differences between the general character of the Northern Virginia metropolitan area and other parts of the state in terms of lifestyle, zoning restrictions, traffic density and other factors which have adversely affected the convenience of lottery players. The following criteria constitute aspects of the program:

- Geographic area of eligibility:

Beginning at the crossing point of U.S. Highway 15 at the Potomac River, the western boundary is marked by State Road 665 extending southward along State Road 704 to U.S. Highway 15, and southward on U.S. 15 to intersect with U.S. 29. The boundary continues 3 miles eastward on U.S. 29 to the intersection with State Road 619 and southeasterly along State Road 619 to Interstate 95. The boundary continues north along Interstate 95 to Exit 52, then extends directly eastward to the Potomac River. The boundary follows the Potomac River in the northwest direction to the beginning point at the intersection of U.S. 15 and the Potomac River at the Point of Rocks Potomac River Bridge.

Businesses which directly front any road or highway, excluding interstate highway, will be defined to be inside the open licensing geographic area regardless of which side of the highway they may occupy.

- Any retailer located within the geographic area of eligibility and licensed to sell lottery tickets or shares may request placement of an on-line lottery terminal in his business location.

- The department will issue to the retailer an On-Line Lottery License Addendum subject to all agreements, terms, regulations and orders governing on-line games promulgated by the Director.

- Each retailer licensed as a result of this program as an on-line retailer must meet or exceed the minimum sales volume requirements listed below to retain his on-line license and terminal. Failure to do so will result in revocation of the on-line license and removal of the terminal. Volume requirements may be amended by further Director's Order.

Minimum volume requirements:

At 26 weeks, \$ 500 per week based upon 10-week

average sales

At 52 weeks, \$1,000 per week based upon 10-week average sales

- As an incentive to promote positive customer service, a rebate for the telecommunications hook-up installation fee of \$275 will be awarded to retailers whose 10 week average sales volume exceeds \$2,500 at the 26th week after installation.

- Retail businesses which change ownership before the 26 or 52-week evaluation periods and have been licensed under this program will be considered as new licensees after the ownership change. The new licensee will have the balance of the period of the original agreement, but not less than 9 weeks, within which time minimum sales volumes must be achieved to retain the on-line license.

This order amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of on-line game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until June 30, 1991, unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson, Director  
Date: February 10, 1991

# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

### STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.**

Governor's Comment:

The intent of this regulation is to protect the public's welfare by limiting the release of toxic substances into the air. Pending public comment, I recommend approval of this regulation.

/s/ Lawrence Douglas Wilder  
Governor  
Date: February 7, 1991

### DEPARTMENT OF COMMERCE

Title of Regulation: **VR 170-01-1:1. Board for Barbers Rules and Regulations.**

Governor's Comment:

The proposed regulations, in accordance with the Callahan Act, would enable the Board for Barbers to cover administrative expenses. In addition, the proposed regulations would reform the barber licensing program. Pending public comment, I recommend approval.

/s/ Lawrence Douglas Wilder  
Governor  
Date: February 21, 1991

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **VR 460-04-8.6. State Plan for Medical Assistance Relating to Spousal Impoverishment.**

Governor's Comment:

I concur with the form and the content of this proposal. My final comment will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder  
Governor  
Date: February 22, 1991

### BOARD OF MEDICINE

Title of Regulation: **VR 465-01-01. Public Participation Guidelines.**

Governor's Comment:

I concur with the content of this proposal. My final

approval will be contingent upon a review of the public's comment.

/s/ Lawrence Douglas Wilder  
Governor  
Date: February 21, 1991

### BOARD OF PROFESSIONAL COUNSELORS

Title of Regulation: **VR 560-01-02. Regulations Governing the Practice of Professional Counseling.**

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder  
Governor  
Date: February 22, 1991

\* \* \* \* \*

Title of Regulation: **VR 560-01-03. Regulations Governing the Certification of Substance Abuse Counselors.**

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder  
Governor  
Date: February 21, 1991

# GENERAL NOTICES/ERRATA

## Symbol Key †

† Indicates entries since last publication of the Virginia Register

### 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 of the Alcoholic Beverage Control Board entitled:

**VR 125-01-01. Procedural Rules for the Conduct of Hearings Before the Board and its Hearing Officers and the Adoption or Amendment of Regulations.**

**VR 125-01-02. Advertising.**

**VR 125-01-03. Tied House.**

**VR 125-01-04. Requirements for Product Approval.**

**VR 125-01-05. Retail Operations.**

**VR 125-01-06. Manufacturers and Wholesalers Operations.**

**VR 125-01-07. Other Provisions.**

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. A public meeting will be held on June 20, 1991, at 10 a.m. in the First Floor Hearing Room, 2901 Hermitage Road, Richmond, Virginia, to receive comments from the public. (See notice in General Notices Section.)

Statutory Authority: §§ 4-7(1), 4-11, 4-36, 4-69, 4-69.2, 4-72.1, 4-98.14, 4-103(b) and 9-6.14:1 et seq. of the Code of Virginia.

Written comments may be submitted until April 18, 1991.

**Contact:** Robert N. Swinson, Secretary to the Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

### CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Chesapeake Bay Local Assistance Board intends to consider amending regulations entitled: **VR 173-02-01. Chesapeake Bay Preservation Area Designation and Management Regulations.** The purposes of the proposed action are to:

1. Compress deadlines for adoption of local programs pursuant to the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq. of the Code of Virginia) from two separate and consecutive one-year adoption periods for

various parts of the program into a single one-year adoption period for all parts of the program;

2. Clarify the kinds of roads and streets exempted as "public roads" by § 4.5 B 1 of the regulations, and establish conditions which roads, streets and driveways must satisfy in order to cross Resource Protection Areas;

3. Establish a specific date of subdivision for exempting lots that cannot comply with buffer area and reserve septic system drainfield requirements; and

4. Change the effective date of the regulations in order to supersede Emergency Regulations (VR 173-02-01.1) adopted by the Board on November 15, 1990, and amended and readopted on December 3, 1990, and approved by the Governor. The emergency regulations already incorporate the compression of local program adoption deadlines and the buffer and reserve drainfield effective date proposed in Nos. 1 and 3 above.

Statutory Authority: §§ 10.1-2103 and 10.1-2107 of the Code of Virginia.

Written comments may be submitted until 5 p.m., March 27, 1991.

**Contact:** Scott Crafton, Regulatory Assistance Coordinator, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7729.

### BOARD OF CORRECTIONS

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider amending regulations entitled: **VR 230-30-006. Jail Work/Study Release Program Standards.** The purpose of the proposed action is to establish minimum standards for the establishment and operation of a jail work/study release program.

Statutory Authority: § 53.1-131 of the Code of Virginia.

Written comments may be submitted until May 15, 1991.

**Contact:** A. T. Robinson, Local Facilities Administrator, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3251.

# General Notices/Errata

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## COUNCIL ON THE ENVIRONMENT

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Council on the Environment intends to consider promulgating regulations entitled: **Public Participation Guidelines**. The purpose of the proposed action is to establish public participation guidelines governing the Council on the Environment.

Statutory Authority: §§ 10.1-1206 and 62.1-195.1 of the Code of Virginia.

Written comments may be submitted until March 29, 1991.

**Contact:** Jay Roberts, Environmental Planner, 202 N. Ninth St., Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Council on the Environment intends to consider promulgating regulations entitled: **Guidelines for the Preparation of Environmental Impact Assessments for Oil or Gas Well Drilling Operations in Tidewater Virginia**. The purpose of the proposed action is to promulgate criteria and procedures for preparing environmental impact assessments required for oil or gas well drilling activities in Tidewater Virginia.

State law requires that persons intending to drill for oil or gas in any area of Tidewater Virginia (defined in § 62.1-13.2 of the Code of Virginia) shall submit to the Department of Mines, Minerals and Energy, as part of the permit application to drill, an environmental impact assessment (EIA). The EIA must include a discussion of:

1. The probabilities and consequences of accidental discharges of oil or gas to the environment during drilling, production and transportation on:
  - a. Finfish, shellfish and other marine and freshwater organisms,
  - b. Birds and other wildlife,
  - c. Air and water quality, and
  - d. Land and water resources;
2. Recommendations for minimizing any adverse economic, fiscal or environmental impacts; and
3. An examination of the secondary environmental effects of induced economic development during drilling and production.

The content of an EIA is governed by the statute cited below. A copy of the statute may be obtained by

contacting the person indicated below.

The Council on the Environment will hold a meeting to gather information on and to receive comments on issues related to the development of this regulation on March 5, 1991, beginning at 9 a.m. in Senate Room 4, State Capitol Building, Richmond, Virginia.

Statutory Authority: §§ 10.1-1206 and 62.1-195.1 of the Code of Virginia.

Written comments may be submitted until March 29, 1991.

**Contact:** Jay Roberts, Environmental Planner, 202 N. Ninth St., Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

## CRIMINAL JUSTICE SERVICES BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **Rules Relating to Compulsory Minimum Training Standards for Private Security Services Business Personnel**. The purpose of the proposed action is to amend and revise Compulsory Minimum Training Standards for Private Security Services Business Personnel.

Statutory Authority: § 9-182 of the Code of Virginia.

Written comments may be submitted until March 15, 1991, to Lex T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia.

**Contact:** Paula Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730.

## BOARD OF EDUCATION

### † 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 Alternative Education**. The purpose of the proposed action is to (i) redefine alternative education, and (ii) promulgate certain requirements for program content, pupil participation, and accountability for funding.

Statutory Authority: §§ 22.1-16 and 22.1-253.13:1 of the Code of Virginia.

Written comments may be submitted until March 22, 1991.

**Contact:** Richard E. Levy, Associate Director for Middle

Schools, Virginia Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2056.

## BOARD FOR GEOLOGY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Geology intends to consider amending regulations entitled: **VR 335-01-2. Virginia Board for Geology Rules and Regulations.** Biannual regulatory review.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until April 8, 1991.

**Contact:** Nelle P. Hotchkiss, Assistant Director, Asbestos Licensing Program, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

## 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 394-01-06. Virginia Statewide Fire Prevention Code/1990.** The purpose of the proposed action is to establish a fee schedule for explosive permits issued by the Professional Services Office.

Statutory Authority: § 27-97 of the Code of Virginia.

Written comments may be submitted until April 12, 1991.

**Contact:** Gregory H. Revels, Program Manager, Department of Housing and Community Development, Code Development Office, 205 N. Fourth St., Richmond, VA 23219, telephone (804) 786-4884.

## DEPARTMENT OF MEDICAL ASSISTANCE 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 Medical Assistance Services intends to consider amending regulations entitled: **OBRA 89 Requirements for EPSDT.** The purpose of the proposed action is to implement the OBRA 89 requirements for the Early and Periodic Screening, Diagnosis and Treatment Program.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until April 12, 1991, to Scott Crawford, Policy Analyst, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

## 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 the definitions to define the home/extended care facilities or institutions in which physical therapy services are provided, and to amend § 5.3 Supervision of traineeship and § 6.1 Supervision of physical therapist assistants.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until March 25, 1991, to Board of Medicine, 1601 Rolling Hills Drive, Richmond, VA 23229-5005.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925.

## BOARD OF NURSING AND BOARD OF MEDICINE

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with the agencies' public participation guidelines that the Board of Nursing and Board of Medicine intend to consider amending regulations entitled: **VR 465-07-1 and 495-02-1. Regulations Governing the Licensure of Nurse Practitioners.** The purpose of the proposed action is to establish standards on education, licensure and practice of nurse practitioners. The Boards of Nursing and Medicine will propose amendments as necessary following a biennial review for effectiveness, efficiency, necessity, clarity and cost of compliance. A public meeting to receive oral comments on existing regulations will be held on April 5, 1991, at 1:30 p.m. in Conference Room 1, Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia.

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

Written comments may be submitted until April 30, 1991.

**Contact:** Corrine F. Dorsey, Executive Director, Board of

## General Notices/Errata

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Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9909 or toll-free 1-800-533-1560.

### DEPARTMENT OF SOCIAL 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 Social Services intends to consider amending regulations entitled: **General Relief (GR) and Auxiliary Grants (AG) Programs - Attempted Recovery of Overpayments.** The purpose of the proposed action is to require that local departments of social services attempt to recover overpayments of \$94 or more in General Relief and Auxiliary Grants cases.

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

Written comments may be submitted until April 10, 1991, to Ms. Diana Salvatore, Program Manager, Medical Assistance Unit, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia.

**Contact:** Peggy Friedenber, Legislative Analyst, Bureau of Governmental Affairs, Division of Planning and Program Review, 8007 Discovery Drive, Richmond, VA 23229-0899, telephone (804) 662-9217.

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider amending regulations entitled: **General Relief (GR) and Auxiliary Grants (AG) Programs - Services Included in the Home for Adults Rate.** The purpose of the proposed action is to specify the services that are covered by the rate established by the department for a Home for Adults (HFA) so that GR/AG recipients do not pay extra for those services.

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

Written comments may be submitted until April 10, 1991, to Ms. Diana Salvatore, Program Manager, Medical Assistance Unit, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia.

**Contact:** Peggy Friedenber, Legislative Analyst, Bureau of Governmental Affairs, Division of Planning and Program Review, 8007 Discovery Drive, Richmond, VA 23229-0899, telephone (804) 662-9217.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider amending regulations entitled:

**The Virginia Energy Assistance Program.** The department is planning to utilize policies and procedures implemented in the 1990-1991 Energy Assistance Program for the 1991-92 Energy Assistance Program. The department is reviewing a proposal to begin the Fuel Assistance and Crisis Assistance Components on December 1, 1991.

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

Written comments may be submitted until March 25, 1991.

**Contact:** Charlene H. Chapman, Program Manager, Bureau of Energy and Emergency Assistance, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-9727.

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider amending regulations entitled: **VR 615-42-2. Foster Care.** The purpose of the proposed action is to continue foster care services beyond a child's eighteenth birthday.

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

Written comments may be submitted until April 11, 1991, to Pamela T. Fitzgerald, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia.

**Contact:** Margaret J. Friedenber, Regulatory Coordinator, 8007 Discovery Drive, Richmond, VA 23229-0899, telephone (804) 662-9217.

### TREASURY BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Treasury Board intends to consider amending regulations entitled: **VR 640-02. Virginia Security for Public Deposits Act Regulations.** The purpose of the proposed regulation is to provide adequate protection for public funds on deposit in financial institutions in light of recent changes within financial institutions and in the types of securities being pledged as collateral under the Act.

Statutory Authority: § 2.1-364 of the Code of Virginia.

Written comments may be submitted until March 15, 1991.

**Contact:** Linda M. Brendel, Senior Policy Analyst, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-2268.

## 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 680-21-00. Water Quality Standards.** The purpose of the proposed action is to consider a variance to the halogen ban section of VR 680-21-01.11 for the Town of Cleveland. If a variance to the halogen ban is allowed, the Town of Cleveland would continue to chlorinate/dechlorinate and would not be required to install alternate disinfection at their wastewater treatment facility. Applicable laws and regulations include the State Water Control Law, Permit Regulation (VR 680-14-01), Water Quality Standards (VR 680-21-00), and the federal Clean Water Act. For review or copies of material or applicable laws and regulations, contact Ms. Jean Gregory at the address below.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m., March 22, 1991.

Contact: Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6985.

## GENERAL NOTICES

### DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

#### † Public Notice

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 June 20, 1991, 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 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 April 18, 1991.

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 April 18, 1991, requesting that their name be placed on the general mailing list.

C. Petitions for regulatory change and requests to be appointed to the Ad Hoc Advisory Panel should be sent to Robert N. Swinson, Secretary to the Board, 2901 Hermitage Road, Richmond, Virginia 23220 or may be faxed (804) 367-8249 if the original paperwork is also mailed.

D. Applicable laws or regulation (authority to adopt regulations): Sections 4-11, 4-69, 4-69.2, 4-72.1, 4-98.4, 4-103 and 9-6.14:1 et seq., Virginia Code; VR 125-01-1, Part V, Board Regulations.

E. Entities affected: (1) all licensees (manufacturers, wholesalers, importers, retailers) and (2) the general public.

F. For further information contact Robert Swinson at the above address or by phone at (804) 367-0616.

### DEPARTMENT OF HEALTH PROFESSIONS

† Informational Public Hearing on the need for State regulation of Therapeutic Recreation Specialists and Activity Professionals

As authorized by Code of Virginia § 54.1-2501.2 the Board of Health Professions is evaluating proposals for state regulation of two unregulated professions: (i) Therapeutic Recreation Specialists, and (ii) Activity Professionals. The board will evaluate these professions using seven formal

## General Notices/Errata

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criteria which are available on request.

The board will convene informational public hearings on Monday, April 15, 1991, at the Department of Health Professions, 1601 Rolling Hills Drive (Surry Building, Koger Executive Center, West), Richmond to hear comments from agencies, organizations and individuals regarding the two proposals.

4 p.m. - 6 p.m. - Therapeutic Recreation Specialists

6 p.m. - 8 p.m. - Activity Professionals

Oral comments should be limited to five minutes and may be accompanied or complemented with written materials. Written comments are also solicited and must be received by Friday, May 17, 1991, at the address below.

For additional information, travel directions, or to reserve a specific speaking time, please contact the Board of Health Professions (see below).

Contact: Richard Morrison, Executive Director, Department of Health Professions, 1601 Rolling Hills Dr., Suite 200, Richmond, VA 23229-5005, telephone (804) 662-9904.

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

#### † Notice of Grant Programs

The Department of Housing and Community Development was designated administering agency for distribution of state funds appropriated by the General Assembly under the SHARE-Shelter Support Grant Program, SHARE-Homeless Intervention Program, and the Seed Money Program, the Emergency Home Repair Program, and the Indoor Plumbing Program for the 1991 session. The programs will operate at locations throughout the state, with the funding accessible to local administrators/project sponsors on an annual competitive cycle. Informal advisory committees were established to gather input on program design.

Notice is hereby given of the availability of grants to eligible local administrators/project sponsors under the SHARE-Shelter Support Grant Program (application deadline- April 2, 1991; amount available statewide- \$709,120), the SHARE-Homeless Intervention Program (continued funding at eight demonstration sites; amount available- \$1,226,000), the Seed Money Program (application deadline- May 1, 1991; amount available statewide- \$337,500), the Emergency Home Repair Program (application deadline- April 8, 1991; amount available statewide- \$225,000), and the Indoor Plumbing Program (no application schedule established at this time; amount available statewide- \$2,300,000).

For requesting program information or application manual contact: Rebecca C. Miller, Program Manager, Virginia

Department of Housing and Community Development, 205 N. Fourth St., Richmond, VA 23219, telephone (804) 786-7891.

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### State Plan for Medical Assistance

#### † Public Notice of Coverage Change

Effective Date: March 1, 1991

Regulation Title: Elimination of Medicaid Payment for Reserving Nursing Facility Beds for Hospitalized Patients.

The Department of Medical Assistance Services (DMAS) hereby announces its intent to amend the Plan for Medical Assistance to eliminate Medicaid payment for reserving a bed in a nursing facility for a resident during period when that resident is hospitalized. The section of the State Plan to be affected by this action is Attachment 3.1 C (VR 460-02-3.1300).

On July 1, 1982, Virginia Medicaid policy was changed to terminate the practice of paying nursing facilities for reserving the beds of nursing facility residents during their hospitalization. As an integral part of this policy, facilities were required to ensure that a former resident discharged from a hospital was given the opportunity to be readmitted to that facility at the time of the next available vacancy.

Effective July 1, 1988, Virginia Medicaid policy was changed to provide for Medicaid payment to nursing facilities in a planning district whose occupancy rate was 96% or better, in order to hold a nursing home bed for up to 12 days for a hospitalized resident. It was believed the policy would ensure more timely discharge of residents from acute care hospitals; in fact, it had the opposite effect. A study of hospital lengths of stay for nursing home residents showed that those covered by the policy were discharged from the hospital on average one day sooner than those covered by the policy. The average length of stay in planning districts with bed hold days was 9.32 days, while the length of stay in planning districts without bed hold days was 8.62 days (1990 claims data). This may be attributed in part to the fact that when families were paying private rates to hold the bed, they may have communicated more often with the hospital physician and pushed for an early discharge. Another problem reported to DMAS that occurred concurrent with this new policy was that hospitals were not always able to discharge first-time admissions to nursing facilities because beds were being held.

In FY1990, there were 3,720 actual hospitalizations of nursing facility residents. Of this total, 29% were from planning districts that did not have bed hold coverage, and 71% from those who did. Of the planning districts that were covered by bed hold days, Medicaid funds paid for 20,297 bed hold days. Based on an average nursing facility

reimbursement rate of \$60 per day, this resulted in \$1,219,068 (\$600,000 NGF; \$600,000 GF) reimbursement to the facilities.

There are 22 planning districts in the state. Based on the occupancy rates obtained from nursing facilities' cost reports filed with DMAS, 14 districts (1, 2, 4, 5, 6, 7, 11, 12, 13, 14, 15, 16, 17, 22) had facilities with an occupancy rate of 96% or above at the time of the most recent cost report filed as of June 30, 1990. Therefore, for fiscal year 1991, 104 of the 227 nursing facilities statewide, are in planning districts that have bed hold day reimbursement.

The department does not anticipate that eliminating this coverage policy will cause nursing facility residents to be displaced. When the policy of reserving nursing facility beds for hospitalized residents was eliminated in 1982, DMAS monitored closely the outcomes for hospitalized residents in three ways: first, it checked facility compliance as part of its inspection of care activities; second, it investigated charges of noncompliance, and third, it conducted a six-year long telephone survey of policy results. Only 1-2% of all hospitalized residents were displaced to another nursing facility, but all who wanted to return to their original facility later did so.

Availability of proposed changes and address for comments: Please request a copy of the regulations from and direct your written comments to: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219. Questions regarding the implementation of this policy may be directed to Cindi Bowling, Division of Quality Care Assurance, at (804) 225-4218.

## NOTICES TO STATE AGENCIES

**CHANGE OF ADDRESS:** Our new mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you do not follow-up with a mailed in copy. Our FAX number is: 371-0169.

**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.

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# CALENDAR OF EVENTS

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<b>Symbols Key</b>	
†	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

March 28, 1991 - 9:30 a.m. - Open Meeting  
8007 Discovery Drive, Blair Building, 2nd Floor,  
Conference Room A and B, Richmond, Virginia. ♿

Business will include review of goals and objective.  
Meeting attendees will include representatives of  
legislative groups concerned with aging issues.

Contact: Virginia Dize, State Ombudsman, Department for  
the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA  
23219-2327, telephone (804) 225-3141, toll-free 1-800-552-3402  
or 225-2271/TDD ☎

#### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

##### Pesticide Control Board

May 10, 1991 - 10:30 a.m. - Public Hearing  
Sheraton Airport Inn, Salons A and B of Ballroom, 4700  
South Laburnum Avenue, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Pesticide Control  
Board intends to amend regulations entitled: **VR  
115-04-03. Rules and Regulations for Enforcement of**

**the Virginia Pesticide Law.** The 1989 Virginia Pesticide Control Act authorizes the Pesticide Control Board to adopt regulations to accomplish the Act's purpose. To this end, the board has proposed VR 015-04-23, Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act. Parts of this proposed regulation are intended to supersede § 21, "Categories for commercial applicators"; § 22, Standards of certification of commercial applicators"; § 24, Standards for certification of private applicators"; and § 25, "Standards for application of pesticides classified for restricted use by noncertified applicators" of VR 115-04-03, Rules and Regulations for Enforcement of the Virginia Pesticide Law. The provisions of VR 115-04-03 are to remain in effect, according to the Act, "until repealed by the Pesticide Control Board." The purpose of this regulatory action is to propose the repeal of these four identified sections of VR 115-04-03.

Statutory Authority: § 3.1-249.28 of the Code of Virginia.

Written comments may be submitted until 5 p.m., April 30, 1991.

Contact: C. Kermit Spruill, Jr., Director, Division of Product and Industry Regulation, Department of Agriculture and Consumer Services, P.O. Box 1163, Room 403, 1100 Bank St., Richmond, VA 23209, telephone (804) 786-3523.

\* \* \* \* \*

May 10, 1991 - 10:30 a.m. - Public Hearing  
Sheraton Airport Inn, Salons A and B of Ballroom, 4700  
South Laburnum Avenue, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-04-23. Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act.**

Regulations Governing Pesticide Applicator Certification under Authority of Virginia Pesticide Control Act set standards of certification for persons specified by statute who use or supervise the use of pesticides in Virginia (including but not limited to farmers using restricted-use pesticides on their own land and persons who apply pesticides commercially, but excluding persons who use nonrestricted-use pesticides in and around their own homes). This regulation will help to assure that these

persons subject to the regulation are adequately trained and competent to use pesticides, an important element in any effort to ensure that pesticides are used in a manner consistent with public health, public safety, and the well-being of the environment.

The proposed regulation includes, among other things, standards for training and testing of registered technicians, a classification of pesticide applicator newly created under the Pesticide Control Act, and for private applicators and commercial applicators, classifications of pesticide applicators that exist at present under VR 115-04-03, Rules and Regulations for Enforcement of the Virginia Pesticide Law.

The proposed regulation sets standards of financial responsibility for those who apply pesticides commercially who are not subject to the present business-license regulation. (Licensed pesticide businesses are required to meet certain measures of financial responsibility under a regulation already in effect.)

The proposed regulation requires those subject to its requirements to report pesticide spills.

In part the proposed regulation is intended to supersede four related but different sections of VR 115-04-03.

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until 5 p.m., April 30, 1991.

Contact: C. Kermit Spruill, Jr., Director, Division of Product and Industry Regulation, Department of Agriculture and Consumer Services, P.O. Box 1163, Room 403, 1100 Bank St., Richmond, VA 23209, telephone (804) 786-3523.

## STATE AIR POLLUTION CONTROL BOARD

† March 14, 1991 - 9 a.m. - Open Meeting  
† March 15, 1991 - 9 a.m. - Open Meeting  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☐

The board will consider two permit applications, one from multitrade on Thursday, and one from Old Dominion Electric Cooperative on Friday. Other business will involve the development of an operating permit program (Thursday). Agendas will be available two weeks before the meeting.

Contact: Dr. Kathleen Sands, Board - Staff Liaison, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

## DEPARTMENT OF AIR POLLUTION CONTROL

† March 26, 1991 - 7:15 p.m. - Public Hearing  
Handley Public Library Auditorium, 100 West Piccadilly Street, Winchester, Virginia.

A public hearing to consider a permit application from Amoco Foam Products to modify and operate its expanded polystyrene products plant in Winchester, Virginia.

Contact: William N. Millward, Department of Air Pollution Control Region VII, 6225 Brandon Avenue, Springfield, VA, telephone (703) 644-0311.

## ALCOHOLIC BEVERAGE CONTROL BOARD

March 18, 1991 - 9:30 a.m. - Open Meeting  
2901 Hermitage Road, Richmond, Virginia. ☐

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

## BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

March 14, 1991 - 9 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☐

A meeting to (i) approve minutes from November 29, 1990, meeting; (ii) review correspondence; (iii) review enforcement files; and (iv) review applications.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23240, telephone (804) 367-8514.

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March 14, 1991 - 10 a.m. - Public Hearing  
Department of Commerce, 3600 West Broad Street, Room 395, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to amend regulations entitled: VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations. The proposed amendment will adjust fees contained in current regulations.

# Calendar of Events

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Statutory Authority: §§ 54.1-113 and 54.1-404 of the Code of Virginia.

Written comments may be submitted until March 4, 1991.

**Contact:** Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

## Board for Interior Designers

† **March 22, 1991 - 1 p.m.** – Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to review and revise regulations and develop applications.

**Contact:** Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23240, telephone (804) 367-8514.

## Board for Land Surveyors

† **March 15, 1991 - 9 a.m.** – Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes of November 16, 1990, meeting; (ii) review enforcement files; (iii) review applications; and (iv) review correspondence.

**Contact:** Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

## ASAP POLICY BOARD -ROCKINGHAM-HARRISONBURG

† **March 21, 1991 - 7 p.m.** – Open Meeting  
Rockingham-Harrisonburg ASAP Office, 44 East Market Street, Harrisonburg, Virginia.

A quarterly board meeting

**Contact:** Pam Simmons, Director, 44 E. Market St., Harrisonburg, VA 22801, telephone (703) 434-0154.

## ASAP POLICY BOARD - VALLEY

† **March 11, 1991 - 8:30 a.m.** – Open Meeting  
Augusta County School Board Office, Fishersville, Virginia. ☒

A business meeting to consider (i) court referrals; (ii) financial reports; (iii) director's report; and (iv) statistical reports.

**Contact:** Rhoda G. York, Executive Director, 2 Holiday Court, Staunton, VA 24401, telephone (703) 886-5616 or

943-4405 (Waynesboro number).

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **April 4, 1991 - 10 a.m.** – Open Meeting  
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to conduct general business and review local Chesapeake Bay Preservation Act programs. Tentative agenda will be available at the Chesapeake Bay Local Assistance Department by March 29, 1991.

**Contact:** Receptionist, 805 East Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or 1-800-243-7229/TDD ☎

## CHILD DAY-CARE COUNCIL

† **March 14, 1991 - 9 a.m.** – Open Meeting  
† **March 15, 1991 - 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 upon request)

A meeting to discuss issues, concerns, and programs that impact child care centers, camps, school age programs, and preschool/nursery schools. The contingency snow date is March 22, 1991.

**Contact:** Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

## VIRGINIA COUNCIL ON CHILD DAY CARE AND EARLY CHILDHOOD PROGRAMS

† **March 19, 1991 - 2 p.m.** – Public Hearing  
† **March 19, 1991 - 7 p.m.** – Public Hearing  
Wytheville Community College, Grayson Commons, Wytheville, Virginia.

† **March 28, 1991 - 2 p.m.** – Public Hearing  
† **March 28, 1991 - 7 p.m.** – Public Hearing  
Norfolk City Council Chambers, City Hall Building, 810 Union Street, Norfolk, Virginia.

† **April 4, 1991 - 10 a.m.** – Public Hearing  
Virginia Housing Development Authority, 1st Floor Conference Room, 602 Belvidere Street, Richmond, Virginia.

† **April 10, 1991 - 2 p.m.** – Public Hearing  
† **April 10, 1991 - 7 p.m.** – Public Hearing  
Alexandria City Council Chambers, Alexandria City Hall,

301 King Street, Alexandria, Virginia.

The Council is the lead agency in Virginia for administration of a new federal grant, the Child Care and Development Block Grant. The Council is holding public hearings to solicit comments on child care needs in the state. Interested persons or groups are encouraged to attend. Individuals who want to testify should contact the Council's Richmond Office (1-804-371-8603) to reserve a time slot.

**Contact:** Linda Sawyers, Director, Virginia Council on Child Day Care and Early Childhood Programs, Suite 1116, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 371-8603.

## BOARD OF COMMERCE

**March 18, 1991 - 10 a.m. - Open Meeting**  
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A regular quarterly meeting of the board. The board will assess legislation passed by the General Assembly's 1991 Session that impacts upon the Department of Commerce. The board will also discuss aspects of the Governor's "Project Streamline" program that will affect the department.

**Contact:** Alvin D. Whitley, Staff Assistant to Board, Department of Commerce, 3600 West Broad St., Richmond, VA 23230, telephone (804) 367-8564 or SCATS 367-8519.

## STATE BOARD FOR COMMUNITY COLLEGES

**March 20, 1991 - Time to be announced - Open Meeting**  
Monroe Building, Board Room, 15th Floor, 101 North 14th Street, Richmond, Virginia.

Committee meetings.

**March 21, 1991 - 10 a.m. - Open Meeting**  
Monroe Building, Board Room, 15th Floor, 101 North 14th Street, Richmond, Virginia.

A regular meeting of the board.

**Contact:** Joy Graham, Monroe Building, 15th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2126.

## COMPENSATION BOARD

**March 14, 1991 - 5 p.m. - Open Meeting**  
**April 25, 1991 - 5 p.m. - Open Meeting**  
Ninth Street Office Building, 202 North Ninth Street, 9th Floor, Room 913/913A, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A routine meeting to conduct business of the board.

**Contact:** Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, VA 23206-0686, telephone (804) 786-3886 or (804) 786-3886/TDD ☎

## DEPARTMENT OF CONSERVATION AND RECREATION

### Goose Creek Scenic River Advisory Board

† **March 13, 1991 - 2 p.m. - Open Meeting**  
The Law Offices of Shaw-Pittman, 201 Liberty Street, Leesburg, Virginia.

A meeting to review river issues and programs.

### Guest Scenic River Advisory Board

**March 21, 1991 - 7 p.m. - Open Meeting**  
**April 18, 1991 - 7 p.m. - Open Meeting**  
Coeburn Town Hall, 403 Second Street, Coeburn, Virginia.

A meeting to review river issues and programs.

**Contact:** Richard Gibbons, Environmental Programs Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or 786-2121/TDD ☎

### Shenandoah Scenic River Advisory Board

**March 12, 1991 - 4 p.m. - Open Meeting**  
Courthouse in Berryville, Virginia.

A meeting to consider river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Programs Director, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 22219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

## BOARD FOR CONTRACTORS

**March 12, 1991 - 9 a.m. - Open Meeting**  
3600 West Broad Street, Richmond, Virginia. ☒

The Regulatory Statutory Review Committee will meet to consider requests for interpretation of several issues and to establish policy and procedural guidelines.

**Contact:** Kelly G. Ragsdale, Assistant Director, 3600 W. Broad St., Richmond, VA 23219, telephone (804) 367-8557.

**March 28, 1991 - 10 a.m. - Open Meeting**  
Municipal Building, Conference Room, 215 Church Avenue, 4th Floor, Roanoke, Virginia.

# Calendar of Events

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The board will meet to conduct a formal hearing: File Number 89-00558, Board for Contractors v. John T. Chitwood, III, t/a J T's Remodeling .

**Contact:** Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8524.

## Recovery Fund Committee

**March 26, 1991 - 9 a.m. - Open Meeting**  
3600 West Broad Street, Richmond, Virginia. ☒

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting is open to the public; however, a portion of the discussion may be conducted in Executive Session.

**Contact:** Vickie Brock, Recovery Fund Administrator, 3600 W. Broad St., Richmond, VA 23219, telephone (804) 367-2394.

## BOARD OF CORRECTIONS

**March 13, 1991 - 10 a.m. - Open Meeting**  
† **April 17, 1991 - 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.

**Contact:** Ms. Vivian Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

## Liaison Committee

† **March 14, 1991 - 9:30 a.m. - Open Meeting**  
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

A meeting to address criminal justice issues.

**Contact:** Louis E. Barber, Sheriff, Montgomery County, P.O. Drawer 149, Christiansburg, VA 24073, telephone (703) 382-2951.

## BOARD OF DENTISTRY

**March 16, 1991 - 11 a.m. - Open Meeting**  
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting of the Legislative Committee to discuss any possible legislative changes for 1992 session of the General Assembly. The public may observe the meeting and comments from the public will be accepted.

**April 24, 1991 - 2 p.m. - Open Meeting**  
**April 25, 1991 - 8:30 a.m. - Open Meeting**  
**April 26, 1991 - 8:30 a.m. - Open Meeting**  
**April 27, 1991 - 1 p.m. - Open Meeting**  
1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

Committee Meetings on Wednesday

Regulatory, Executive and Advertising

Committee Reports on Thurs, Fri and Sat  
Regulatory Committee  
Advertising Committee  
Executive Committee  
Legislative Committee  
Budget Committee  
Exam Committee  
Dental Hygiene Endorsement Committee

Regular Board Business on Thurs, Fri and Sat

Formal Hearings on Thurs, Fri and Sat

This is a public meeting and the public is invited to observe. Public testimony will be received by the board at this meeting.

**April 27, 1991 - 10 a.m. - Public Hearing**  
Surry Building, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

The board will conduct its Biennial Informational Public Hearing to receive comments on the current regulations and topics.

**Contact:** Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9906.

## BOARD OF EDUCATION

**March 1, 1991 - 9 a.m. - Open Meeting**  
Berkeley Hotel, 12th and Cary Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold its regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. Public comment will not be received at the meeting.

† **March 28, 1991 - 8 a.m. - Open Meeting**  
† **March 29, 1991 - 9 a.m. - Open Meeting**  
James Monroe Building, Conference Rooms D and E, 101 North Fourteenth Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A joint meeting of the Board of Education and the Board of Vocational Education. Business will be

# Calendar of Events

conducted according to items listed on the agenda. The agenda is available upon request. Public comment will not be received at the meeting.

**Contact:** Margaret Roberts, Executive Director, Board of Education, State Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540.

## LOCAL EMERGENCY PLANNING COMMITTEE - ARLINGTON COUNTY/CITY OF FALLS CHURCH

† April 25, 1991 - 7:30 p.m. - Open Meeting  
Fire State Number 1, 500 South Glebe Road, Arlington, Virginia. ☒ (Interpreter for deaf provided upon request)

Local Emergency Planning committee meeting to meet requirements of SARA.

**Contact:** Thomas M. Hawkins, Jr., Chairman, 2100 Clarendon Blvd., Suite 400, Fire Department Administration, Arlington, VA 22201, telephone (703) 358-3365 or (703) 558-2096/TDD ☎

## LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

April 4, 1991 - 5:30 p.m. - Open Meeting  
May 2, 1991 - 5:30 p.m. - Open Meeting  
Chesterfield County Administration Building, Room 502, 10,001 Ironbridge Road, Chesterfield, Virginia. ☒

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

**Contact:** Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

## LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG

† March 12, 1991 - 3 p.m. - Open Meeting  
Montgomery Complex Courthouse, 3rd Floor, Board of Supervisors Room, Christiansburg, Virginia. ☒

Development of a Hazardous Materials Emergency Response Plan for Montgomery County and the Town of Blacksburg.

**Contact:** Steve Via, New River Valley Planning District Commission, P.O. Box 3726, Radford, VA 24143, telephone (703) 639-9313 or SCATS 676-4012.

## LOCAL EMERGENCY PLANNING COMMITTEE - PRINCE GEORGE COUNTY

† March 21, 1991 - 7:30 p.m. - Open Meeting

Disputanta Fire Department, 1000 County Drive, Disputanta, Virginia. ☒

A meeting of the Prince George County Emergency Planning Committee to conduct annual table top exercise with emergency response groups.

**Contact:** Gilbert M. Lee, Coordinator of Emergency Services, P.O. Box 68, 6400 Courthouse Road, Prince George, VA 23875, telephone (804) 733-2609.

## LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF PRINCE WILLIAM, CITY OF MANASSAS, AND CITY OF MANASSAS PARK

March 18, 1991 - 1:30 p.m. - Open Meeting  
1 County Complex Court, Prince William, Virginia. ☒

Local Emergency Planning Committee to discharge the provisions of SARA Title III.

**Contact:** Thomas J. Hajduk, Information Coordinator, 1 County Complex Court, Prince William, VA 22192-9201, telephone (703) 335-6800.

## VIRGINIA EMERGENCY RESPONSE COUNCIL

† April 22, 1991 - 10 a.m. - Open Meeting  
Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia. ☒

This meeting will provide the VERC with an update of issues concerning local governments and Local Emergency Planning Committees (LEPCs) regarding emergency planning and preparedness; and this meeting will recommend additional outreach to local governments and to LEPCs to further their SARA Title III activities to Virginia communities.

**Contact:** Cathy L. Harris, Environmental Program Manager, Virginia Department of Waste Management, Monroe Building, 14th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2513, 225-2613, toll-free 1-800-552-2075 or (804) 371-8737/TDD ☎

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

March 13, 1991 - 9 a.m. - Open Meeting  
† April 10, 1991 - 9 a.m. - Open Meeting  
† April 19, 1991 - 9 a.m. - Open Meeting  
1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

A regularly scheduled board meeting. Public comment will be received during last 30 minutes of meeting.

**Contact:** Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone

# Calendar of Events

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(804) 662-9907.

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**April 15, 1991** - 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 Funeral Directors and Embalmers intends to adopt regulations entitled: **VR 320-01-04. Curriculum for Resident Trainee Program.** The regulation is designed to provide consistency and accountability in the funeral trainee program.

Statutory Authority: § 54.1-2803 of the Code of Virginia.

Written comments may be submitted until April 15, 1991.

**Contact:** Meredyth Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9941 or SCATS 8-662-7390.

## BOARD OF GAME AND INLAND FISHERIES

† **March 20, 1991 - 10 a.m.** - Open Meeting  
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia.

Board committees will meet on Wednesday, March 20, 1991, beginning at 10 a.m. with the Planning Committee, followed by the Finance Committee, Legislative Committee, Law and Education Committee and ending with the Wildlife and Boat Committee meeting in the afternoon. Committee members will discuss administrative and related matters appropriate to each Committee.

† **March 21, 1991 - 9:30 a.m.** - Open Meeting  
† **March 22, 1991 - 9:30 a.m.** - Open Meeting  
Howard Johnson Hotel, 3207 North Boulevard, Richmond, Virginia.

The board will hear recommendations and proposals from the staff and the public relative to the bear-deer-turkey, small game and trapping regulations for the 1991-92 and 1992-93 hunting seasons. This will involve season dates, bag limits, method of take, etc., to be voted on by the board for statewide advertisement and subsequent action in the May board meeting.

Other administrative and general matter, as necessary, will be discussed and acted on.

**Contact:** Belle Harding, Secretary to Bud Bristow, 4010 W. Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000, toll-free 1-800-252-7717 or (804) 367-1000/TDD ☎

## GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

† **March 18, 1991 - 10:30 a.m.** - Open Meeting  
Richmond Radison Hotel, 555 East Canal Street, Richmond, Virginia. ☒

A general meeting of the Governor's Job Training Coordinating Council, which is open to the public.

**Contact:** Abria M. Singleton, Executive Secretary, The Commonwealth Building, Third Floor, 4615 W. Broad St., Richmond, VA 23230, telephone (804) 367-9816.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

**April 25, 1991 - 9 a.m.** - Public Hearing  
James Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **VR 355-40-04. Regulations Governing the Virginia Medical Scholarship Program.** The Proposed regulations set forth eligibility criteria award process, terms, conditions and circumstances under which Virginia medical scholarship will be awarded.

Statutory Authority: § 32.1-122.6 B of the Code of Virginia.

Written comments may be submitted until April 26, 1991.

**Contact:** Raymond O. Perry, Director, Virginia Department of Health, Office of Planning and Regulatory Services, 1500 E. Main St., Suite 105, Richmond, VA 23219, telephone (804) 786-6970.

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**April 25, 1991 - 1 p.m.** - Public Hearing  
James Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **VR 355-40-05. Rules and Regulations for the Identification of Medically Underserved Areas in Virginia.** The regulations set forth the criteria for identification of areas within the Commonwealth that are in need of additional primary health care services and for the designation of areas so identified as medically underserved areas.

Statutory Authority: § 32.1-122.5 of the Code of Virginia.

Written comments may be submitted until April 26, 1991.

**Contact:** Raymond O. Perry, Director, Virginia Department

of Health, Office of Planning and Regulatory Services, 1500 E. Main St., Suite 105, Richmond, VA 23219, telephone (804) 786-6970.

## DEPARTMENT OF HEALTH PROFESSIONS

### Administration and Budget Committee

† April 17, 1991 - 8:30 a.m. – Public Hearing  
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

A meeting to consider preliminary cost center budget requests for the 92-94 biennium.

Contact: Richard Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23219, telephone (804) 662-9904.

### Regulatory Research Committee

† April 15, 1991 - 4 p.m. – Public Hearing  
Department of Health Professions, 1601 Rolling Hills Drive, Room 1, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

An informational public hearing (See General Notices section.)

Contact: Richard Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23219, telephone (804) 662-9904.

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

March 26, 1991 - 9:30 a.m. – Open Meeting  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

## DEPARTMENT OF HISTORIC RESOURCES (BOARD OF)

March 15, 1991 – 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 Historic Resources intends to amend regulations entitled: **VR 390-01-02. Regulations Governing Permits for the Archaeological Excavation of Human Remains.** The purpose of the proposed action is to implement the

Virginia Antiquities Act, § 10.1-2305 of the Code of Virginia, governing the issuance of permits for the archaeological excavation of unmarked human burials. This permitting process will affect any persons or entities who conduct any type of archaeological field investigation involving the removal of human remains or associated artifacts from any unmarked human burial. It will also affect any such removal involving archaeological investigation as part of a court-approved removal of a cemetery. This permitting process serves as an alternative to the legal requirement for a court order to remove human burials from unmarked graves and as a supplementary process when the court orders such removal in cases of marked graves and cemeteries. The proposed regulations include technical criteria, and administrative procedures governing the issuance of said permits including such issues as: professional qualifications of applicant, research goals and methodology, interim curation, and final disposition and public comment.

Statutory Authority: § 10.1-2300 et seq. of the Code of Virginia.

Contact: Dr. M. Catherine Slusser, State Archaeologist, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

### Amusement Device Technical Advisory Committee

† March 14, 1991 - 9 a.m. – Open Meeting  
Seventh Floor Conference Room, 205 North Fourth Street, Richmond, Virginia. ☒

A meeting to review and discuss regulations pertaining to the constructions, maintenance, operation and inspection of amusement devices adopted by the Board of Housing and Community Development.

Contact: Jack A. Proctor, CPCA, Deputy Director, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-4752 or (804) 786-5405/TDD ☎

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

† April 11, 1991 – 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 Department of Housing and Community Development intends to amend regulations entitled: **VR 394-01-105. Share Expansion Grant/Loan Program.** The SHARE

# Calendar of Events

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Expansion Grant/Loan Program provides grants and loans for the expansion or creation of emergency shelters, transitional facilities and single room occupancy units.

## STATEMENT

Basis: Statutory Authority § 36-141 et seq. the Code of Virginia.

Purpose: The purpose of the amendment is to fund all qualified projects which result in the expansion or creation of homeless facilities prior to funding all qualified projects which do not result in expansion or creation of homeless facilities.

Substance: The amendment establishes a funding priority for applicants who are expanding or establishing emergency shelters, transitional housing, or single room occupancy facilities.

Issues: Establishing a funding priority retains the main intent of the program which is the expansion/creation of homeless facilities, but still allows nonexpansion projects to be eligible for any remaining funds.

Impact: The amendment impacts all operators and potential operators of homeless facilities which meet program requirements.

Statutory Authority: § 36-141 et seq. Code of Virginia.

Written comments may be submitted until April 11, 1991.

**Contact:** Irene Clouse DHCD, Program Administrator, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-8734.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **March 19, 1991 - 11 a.m.** – Open Meeting  
601 S. Belvidere St., Richmond, VA. ☒

This will be the regular meeting of the Board of Commissioners (i) to 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 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 Council, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

\* \* \* \* \*

† **April 3, 1991** – 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 Housing Development Authority intends to amend regulations entitled: **VR 400-02-0011. Rules and Regulations For Allocation of Low-Income Housing Tax Credits.**

## STATEMENT

Purpose: To clarify and modify the rules and regulations for allocation of low-income housing tax credits available under § 42 of the Internal Revenue Code.

Basis: Sections 36-55.30:3 of the Code of Virginia.

Subject, substance and issues: The proposed amendments to the rules and regulations for allocation of low-income housing tax credits ("federal credits") of the Virginia Housing Development Authority (the "Authority") will make the following changes:

1. Amend the requirement for site control (as a prerequisite for submission of the application) by eliminating the provision whereby site control by a party having an ownership interest in the applicant or a party within the exclusive control of the applicant can satisfy this requirement;
2. Clarify that the requirement for 10% interest of nonprofit entities in the owners of the developments in the nonprofit pool means a 10% interest in both the income and profit and in all items of cash-flow;
3. Delete the \$500,000 maximum limit on reservations in the nonprofit pool;
4. Clarify that (i) there may be more than one round of application review and selection using all or only a portion of the total amount of federal credits available for each round, (ii) unreserved federal credits in any pool at the end of a round may be retained in such pool for future rounds or may be redistributed among other pools, and (iii) unreserved federal credits may be carried over to the next succeeding calendar year;
5. Eliminate points for the applicant's ownership or leasing of the site;
6. Combine and reduce the points for financing and equity commitments, the amounts of which must equal 100% of the total development costs of the project and must be provided by financial institutions and financially sound third-party syndicators for projects involving more than 12 units;
7. Decrease the number of points for (i) development team experience and (ii) increase in housing stock;

8. Award points for nonprofit involvement only if the nonprofit has its principal place of business in Virginia;
9. Increase the threshold number of points for a federal credit allocation;
10. In accordance with certain 1900 amendments to the Internal Revenue Code, eliminate the award of bonus points based upon the percentage of federal credits used to provide equity for the development and, instead, provide for the use of such percentage in determining the amount of federal credits necessary for project feasibility;
11. Increase the bonus points awarded to projects serving lower income households;
12. Lower the bonus points awarded to projects remaining low-income projects beyond the 15-year compliance period;
13. Eliminate the authority's ability to exclude an application because the applicant's development is located within close proximity to another proposed development;
14. Allow the executive director to increase reservation amounts by not more than 10% without board approval;
15. Clarify that the authority may require an applicant to enter into a contract to commit the applicant to perform all representations in its application; and
16. Make a number of technical and clarification changes.

**Impact:**

The authority does not expect that the proposed amendments to the rules and regulations will have any impact on the number of units produced or the number of low-income persons served in connection with the authority's allocation of federal credits. The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed amendments to the rules and regulations.

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Written comments may be submitted until April 3, 1991.

**Contact:** J. Judson McKellar, Jr., General Council, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

\* \* \* \* \*

† April 5, 1991 – 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 Housing Development Authority intends to adopt regulations entitled: **VR 400-02-0017. Rules and Regulations for HUD-Insured Home Equity Conversion Mortgage Loans to Elderly Persons of Low and Moderate Income.**

**STATEMENT**

**Purpose:** The proposed rules and regulations implement a program for the making of HUD-insured home equity conversion mortgage loans to elderly persons of low and moderate income.

**Basis:** Sections 36-55.30:3 of the Code of Virginia.

**Subject, substance and issues:** All home equity conversion mortgage loans are required to be insured by the U.S. Department of Housing and Urban Development ("HUD") and are expected to be sold by the authority to the Federal National Mortgage Association ("FNMA"). Accordingly, the proposed rules and regulations require all home equity conversion mortgage loans to satisfy and comply with the requirements under applicable regulations of HUD and the guidelines and requirements of FNMA for the purchase of such loans. In addition, the authority will require that the annual gross family income of an applicant not exceed 80% of the area median family income.

The proposed rules and regulations include provisions relating to the qualification and selection of originating agents, eligibility of applicants and dwelling units, interest rates and other terms and conditions applicable to the loans, the processing of loan applications, loan closing requirements and fees, and the sale of servicing rights by the authority to one or more financial institutions.

**Impact:** The authority expects that in the first program year the proposed rules and regulations will enable it to make home equity conversion mortgage loans to approximately 100-150 elderly persons of low and moderate income annually. The authority does not expect that any significant costs (other than loan fees and closing costs) will be incurred for the implementation of and compliance with the proposed rules and regulations.

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Written comments may be submitted until April 5, 1991.

**Contact:** J. Judson McKellar, Jr., General Council, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

**COUNCIL ON INDIANS**

**March 27, 1991 - 2 p.m. – Open Meeting**  
Koger Executive Complex/Nelson Building, Department of

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Social Services, 2nd Floor Training Conference Room, 1503 Santa Rosa Road, Richmond, Virginia. ☒

A regular meeting of the Virginia Council on Indians to conduct general business and to receive reports from the Council Standing Committees.

**Contact:** Mary Zoller, Secretary Manager, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9285 or toll-free 1-800-552-7096.

## COUNCIL ON INFORMATION MANAGEMENT

**March 22, 1991 - 9 a.m. – Open Meeting**  
Washington Building, 9th Floor Conference Room, 1100 Bank Street, Richmond, Virginia. ☒

A regular business meeting to consider adoption of ITRM Guideline on the Telecommunications Wiring of State Buildings.

**Contact:** Linda Hening, Administrative Assistant, Washington Bldg., Suite 901, 1100 Bank St., Richmond, VA 23219, telephone (804) 225-3622.

## INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

### Coordinating Committee

**March 15, 1991 - 8:30 a.m. – Open Meeting**  
**April 19, 1991 - 8:30 a.m. – Open Meeting**  
Office of the Coordinator, Interdepartmental Regulation, Suite 208, 1603 Santa Rosa Road, Tyler Building, Richmond, Virginia. ☒

Regularly scheduled meetings to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

**Contact:** John J. Allen, Jr., Coordinator, Interdepartmental Regulation, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124.

## DEPARTMENT OF LABOR AND INDUSTRY

### Virginia Apprenticeship Council

† **March 28, 1991 - 1 p.m. – Open Meeting**  
State Capitol Building, House Room 4, Richmond, Virginia. ☒

An open meeting for the purpose of discussing the relationship between Virginia's Apprenticeship Program and the Federal Davis-Bacon Act.

**Contact:** Dr. Thomas E. Butler, Assistant Commissioner,

Training and Public Services, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-4300.

## LIBRARY BOARD

**March 13, 1991 - 10 a.m. – Open Meeting**  
NOTE: CHANGE IN MEETING LOCATION  
Multi-purpose Room, Davis Building, Eastern State Hospital, Williamsburg, 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 Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## COMMISSION ON LOCAL GOVERNMENT

**March 11, 1991 - 10 a.m. – Open Meeting**  
State Capitol, House Room 2, Richmond, Virginia.

A regular meeting to consider such matters as may be presented.

Persons desiring to participate in the commission's regular meeting and requiring special accommodations or interpreter services should contact the Commission's office by March 4, 1991.

† **April 29, 1991 - 11 a.m. – Open Meeting**  
Alleghany County, Clifton Forge Area - Site to be determined.

Oral presentations regarding the proposed Alleghany County - City of Clifton Forge Consolidation.

Persons desiring to participate in the commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's office by April 22, 1991.

† **April 30, 1991 - 9 a.m. – Open Meeting**  
Alleghany County, Clifton Forge Area - Site to be determined.

Oral presentations regarding the proposed Alleghany County - City of Clifton Forge Consolidation.

Persons desiring to participate in the commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's office by April 23, 1991.

† **April 30, 1991 - 7 p.m. – Open Meeting**  
Alleghany County, Clifton Forge Area - Site to be determined.

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Public hearing regarding the proposed Alleghany County - City of Clifton Forge Consolidation.

Persons desiring to participate in the commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's office by April 23, 1991.

† **May 1, 1991 - 9 a.m.** - Open Meeting  
Alleghany County, Clifton Forge Area - Site to be determined.

Oral presentations regarding the proposed Alleghany County - City of Clifton Forge Consolidation.

Persons desiring to participate in the commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's office by April 24, 1991.

**Contact:** Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

## LOCAL GOVERNMENT ADVISORY COUNCIL

**March 11, 1991 - 1 p.m.** - Open Meeting  
General Assembly Building, Speaker's Conference Room, Sixth Floor, Richmond, Virginia.

A regular meeting.

**Contact:** Robert H. Kirby, Secretary, Room 702, Eight Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508.

## LONGWOOD COLLEGE

### Board of Visitors

† **April 28, 1991 - 7 p.m.** - Open Meeting  
† **April 29, 1991 - 9 a.m.** - Open Meeting  
Longwood College, Ruffner Building, Virginia Room, Farmville, Virginia. ☒

A meeting to conduct routine business.

**Contact:** William F. Dorrill, President, Longwood College, Farmville, VA 23901, telephone (804) 395-2001.

## STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

**NOTE: CHANGE IN MEETING DATE**  
**March 25, 1991 - 10 a.m.** - Open Meeting  
State Lottery Department, Conference Room, 2201 West Broad Street, Richmond, Virginia. ☒

A regular monthly meeting of the board. Business will be conducted according to items listed on agenda which has not yet been determined. Two periods for public comment are scheduled.

**Contact:** Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

## VIRGINIA MARINE PRODUCTS BOARD

† **March 19, 1991 - 5 p.m.** - Open Meeting  
The Urbanna Inn, Urbanna, Virginia.

The board will meet to receive reports from the executive director of the Virginia Marine Products Board on finance, marketing, past and future program planning, publicity/public relations, and old/new business.

**Contact:** Shirley Estes Berg, 97 Main St., Suite 103, Newport News, VA 23601, telephone (804) 594-7261.

## MARINE RESOURCES COMMISSION

† **March 26, 1991 - 9:30 a.m.** - Open Meeting  
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for deaf provided if requested)

The Commission will hear and decide marine environmental matters at 9:30 a.m.: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues.

The Commission will hear and decide fishery management items at approximately 2 p.m.: regulatory proposals; fishery management plans; fisher conservation issues; licensing; shell-fish leasing.

Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits, licensing. Public comments are taken on resource matters, regulatory issues, and items scheduled for public hearing.

The Commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

**Contact:** Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23607, telephone (804) 247-8088.

# Calendar of Events

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## GOVERNOR'S ADVISORY BOARD ON MEDICARE AND MEDICAID

† **March 19, 1991 - 2 p.m.** — Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Further refinement of the board's mission and direction through prioritization of goals and objectives.

**Contact:** Sue Jowdy, Administrative Staff Specialist, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-8099 or 1-800-343-0634/TDD ☎

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

**March 15, 1991** — 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-02-2.2100, VR 460-02-2.6100, VR 460-03-2.6105, and VR 460-03-2.6112. Restoration of Income and Resource Methodologies.** This action proposes to restore Medicaid's income and resource methodologies which were overturned by court order.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until 4:30 p.m., March 15, 1991, to Ann E. Cook, Eligibility and Regulatory Consultant, Division of Policy and Research, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-9733.

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† **March 27, 1991 - 1 p.m.** — Open Meeting  
Board Room, Suite 1300, 600 East Broad Street, Richmond, Virginia. ☎

An open meeting to discuss Medical Assistance Services and issues pertinent to the board.

**Contact:** Patricia A. Sykes, Policy Analyst, Suite 1300, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7958 toll-free 1-800-552-8627 or 1-800-343-0634/TDD ☎

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**April 26, 1991** — 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 Medical Assistance Services intends to adopt regulations entitled: **VR 460-03-4.1921. Methods and Standards for Other Types of Services: Obstetric and Pediatric Maximum Payments.** The purpose of this proposal is to promulgate permanent regulations regarding specific obstetric and pediatric maximum payment amounts by DMAS which became effective July 1, 1990.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until April 26, 1991, to Mack Brankley, Director, Division of Client Services, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Virginia.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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**April 26, 1991** — 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-04-8.5. Home and Community Based Services for Technology Dependent Individuals.** The purpose of this proposal is to promulgate permanent regulations regarding Medicaid services for technology-assisted individuals, to supersede the temporary emergency regulation which became effective on June 22, 1990.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until April 26, 1991, to Chris Pruett, Analyst, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Virginia.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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† **May 10, 1991** — 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 Medical Assistance intends to amend regulations entitled: **VR 460-02-3.1100. Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy; VR 460-02-3.1200. Amount,**

**Duration and Scope of Services Provided Medically Needy Group(s): All; VR 460-03-3.1100. Amount, Duration and Scope of Services; VR 460-02-3.1300. Standards Established and Methods to Assure High Quality of Care; and VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates - Other Types of Care; and to adopt new regulations entitled VR 460-04-8.8. Regulations for Hospice Services.**

## STATEMENT

**Basis and authority:** Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) [9-6.14:9, for this agency's promulgation of proposed regulations subject to the Department of Planning and Budget's and Governor's reviews. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, the Code requires this agency to initiate the public notice and comment process as contained in Article 2 of the APA.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) [9505 allowed state Medicaid programs to offer hospice services to the terminally ill. The Code of Federal Regulations, Title 42, Part 418, implements section 1861(dd) of the Social Security Act which specifies services covered as hospice care and the conditions that a hospice program must meet in order to participate in the Medicare and subsequently Medicaid programs.

**Purpose:** The purpose of this proposal is to promulgate permanent regulations providing for the coverage of hospice services to supersede the current emergency regulations which became effective July 1, 1990.

**Summary and analysis:** The proposed regulations affect state regulations VR 460-04-8.8 governing the provision of hospice services as well as the following sections of the State Plan for Medical Assistance: "Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy" (Attachment 3.1-A); "Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Medically Needy" (Attachment 3.1-B); "Standards Established and Methods Used to Assure High Quality Care" (Attachment 3.1-C); and "Methods and Standards for Establishing Payment Rates-Other Types of Care" (Attachment 4.19 B).

Hospice is a medically-directed, interdisciplinary program of palliative services for the terminally ill and their families. Hospice emphasizes the control of pain and symptoms by use of a team of professionals, including physicians, nurses, counselors, therapists, aides and volunteers. The majority of hospice services are delivered in the home with inpatient care available as needed.

For service provided on and after July 1, 1990, DMAS

covers hospice care provided by Medicare-certified hospices licensed in Virginia and enrolled as Medicaid providers. To be eligible for hospice coverage, the Medicaid recipient must be terminally ill (defined as having a life expectancy of six months or less) and must have chosen to receive hospice services rather than active treatment for their illness.

For the first 90-day period of hospice coverage, a physician must certify that the individual is terminally ill, and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. Recertification of the patient's limited life expectancy must be made by the hospice medical director at subsequent 90- and 30-day periods and for a subsequent extension period during the individual's lifetime. (The requirement for the subsequent extension period was mandated under Medicare by the Omnibus Budget Reconciliation Act of 1990, and constitutes the only significant change to the proposed regulations from the emergency regulations. Other changes were minor for clarity.) A plan of care must be established by the hospice interdisciplinary team before services are provided. Services must be consistent with the plan of care.

Medicare began covering hospice services in 1983, mandated by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). With few exceptions, the elements of the state Medicaid hospice programs are required to mirror those for the Medicare program. As described for Medicare and applicable to Medicaid, hospice services entail the following four reimbursement categories of daily care:

Routine home care is at-home care that is not continuous.

Continuous home care is predominantly nursing care provided in the home as short-term crisis care. Home health aide or homemaker services may be provided in addition to nursing care. A minimum of 8 hours of care per day must be provided to qualify as continuous home care.

Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the recipient's primary caregiver(s). Respite care is limited to not more than 5 consecutive days.

General inpatient care may be provided in an approved freestanding hospice, hospital, or nursing facility usually for pain control or acute or chronic symptom management which cannot be successfully treated in another setting.

To be reimbursed, all four categories must include the following core services provided by the hospice's employees: nursing care, physician services, medical social services and counseling and home health aide and homemaker services. In addition, if the patient's condition

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warrants it, durable medical equipment and supplies, drugs and biologicals and rehabilitation services (for symptom control and maintenance of activities of daily living) may be provided. The hospice may contract for supplemental services to meet unusual staffing needs that cannot be anticipated and that occur so infrequently that it would not be practical to hire additional staff to fill these needs.

The hospice is responsible for providing or arranging for all services pertaining to the terminal illness. Hospices may contract for physician specialty services. If contracting is used for any services, the hospice must maintain professional, financial, and administrative responsibility for the services and must ensure that all staff meet the regulatory qualification requirements. All services must be performed by appropriately qualified personnel. The nature of the service, rather than the qualification of the person who provides it, determines the coverage category of the service.

Hospice services will require an initial authorization and physician certification. Utilization review will be conducted to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate.

**Impact:** In applying national trends to Virginia data on the number of Medicaid eligibles over 21, DMAS projects that of the 750 terminally ill patients in FY 88, approximately 13% (100 patients) in FY 91 and 20% (150 patients) in FY 92 would choose hospice care if that alternative were available. The average length of stay would be 45 days. The patient cost for traditional care is estimated to be \$556,400 in FY 91 and \$834,600 in FY 92. The cost for hospice care is estimated to be \$446,900 in FY 91 and \$670,350 in FY 92.

The anticipated net cost savings (after administrative costs) to this agency to implement the hospice program is (\$33,000) (\$27,000 GF; \$6,000 NGF) for FY 91 and (\$88,000) (\$54,000 GF; \$34,000 NGF) for FY 92. This figure includes creation of new billing systems, provider enrollment and training, utilization review, and two additional staff positions.

**Forms:** Two new forms are required to implement this proposed regulation. The Request for Hospice Benefits (DMAS-420) will be used for the initial physician certification and notice to DMAS that the recipient desires to participate in the Medicaid hospice program. The Revocation/Change Statement (DMAS-421) will be used to revoke the hospice benefit, to notify DMAS that the recipient desires hospice services from a different hospice provider, and to notify DMAS that a hospice recipient is deceased.

**Evaluation:** DMAS will review on an ongoing basis the authorization process and utilization review requirements to ensure appropriate services are rendered to recipients of hospice benefits and that the services are medically

necessary.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until May 10, 1991, 5 p.m., to Mary Chiles, R. N., Manager, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, Virginia.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

### BOARD OF MEDICINE

#### Advisory Committee On Optometry

† May 10, 1991 - 10 a.m. - Open Meeting  
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review and consider other postgraduate training programs for approval for eligibility to sit for the certification examination for the treatment of certain diseases or abnormal conditions of the human eye and its adnexa with certain pharmaceutical agents; and approve completed applications to sit for the certification examination to be held on June 25, 1991. The committee will not receive public comments.

#### Advisory Board on Physical Therapy

† May 3, 1991 - open Meeting  
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The board will review and discuss regulations, and other items which may come before the advisory board. Public comment will not be received.

#### Chiropractic Examination Committee

April 18, 1991 - 1:30 a.m. - Open Meeting  
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The committee will meet in executive and closed session to develop test items for the chiropractic examination. Public comments will not be received.

#### Credentials Committee

April 6, 1991 - 8 a.m. - Open Meeting  
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to conduct general business, interview and review medical credentials of applicants for licensure

in Virginia, in open and executive session, and discuss any other items which may come before the committee. Public comments will not be received.

## Executive Committee

**April 5, 1991 - 9 a.m. - Open Meeting**  
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The committee will meet in open session to review closed cases, cases/files requiring administrative action, and consider any other items which may come before the committee. Public comments will not be received.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Building, Second Floor, Richmond, VA 23229, telephone (804) 662-9925.

## Informal Conference Committee

**March 12, 1991 - 9 a.m. - Open Meeting**  
Sheraton-Fredericksburg Resort and Conference Center, I-95 and Route 3, Fredericksburg, Virginia. ☒

**March 15, 1991 - 9 a.m. - Open Meeting**  
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

**March 22, 1991 - 9 a.m. - Open Meeting**  
Williamsburg Hilton, 50 Kings Mill Road, Williamsburg Virginia. ☒

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received

**Contact:** Karen D. Waldron, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

**March 27, 1991 - 10 a.m. - Open Meeting**  
James Madison Building, 13th Floor Conference Room, Richmond, Virginia. ☒

A regular monthly meeting. The agenda will be published on March 20 and may be obtained by calling Jane Helfrich.

Tuesday: Informal session - 6 p.m.

Wednesday: Committee meetings 8:45 a.m. and regular session 10 a.m.

See agenda for location.

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **April 8, 1991 - 1 p.m. - Public Hearing**  
† **April 8, 1991 - 6 p.m. - Public Hearing**  
Virginia Housing Authority, Room Number 1, 601 South Belvidere Street, Richmond, Virginia.

† **April 8, 1991 - 1 p.m. - Public Hearing**  
† **April 8, 1991 - 6 p.m. - Public Hearing**  
Johnston Memorial Hospital, Conference Center, Room C, Abingdon, Virginia.

† **April 8, 1991 - 1 p.m. - Public Hearing**  
† **April 8, 1991 - 6 p.m. - Public Hearing**  
Central Virginia Training Center, Nagler Building, Lynchburg, Virginia.

† **April 8, 1991 - 1 p.m. - Public Hearing**  
† **April 8, 1991 - 6 p.m. - Public Hearing**  
Hampton Public Library, 4207 Victoria Boulevard, Hampton, Virginia.

† **April 8, 1991 - 1 p.m. - Public Hearing**  
† **April 8, 1991 - 6 p.m. - Public Hearing**  
Fairfax Community Services Board, 14601 White Granite Drive, Oakton, Virginia.

Public hearings to receive comments on Virginia's Fourth Year Grant Application to U.S. Department of Education for PL 101-476, Part H, Early Intervention for Infants and Toddlers with Disabilities. Written testimony will be accepted from March 1, 1991 to May 1, 1991 and may be submitted to Early Intervention Program, Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services.

**Contact:** Michael Fehl, Ed.D, Director Mental Retardation, Children and/Youth Services, Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710 or (804) 371-8977/TDD ☎

## DEPARTMENT OF MINES, MINERALS AND ENERGY

**March 26, 1991 - 10 a.m. - Public Hearing**  
Department of Social Services, S.W. Virginia Regional office, 190 Patton Street, Abingdon, Virginia.  
**March 27, 1991 - 1 p.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 Mines, Minerals and Energy intends to repeal regulations entitled: VR 480-05-22. Rules and Regulations for Conservation of Oil and Gas Resources and Well

# Calendar of Events

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**Spacing and adopt regulations entitled: VR 480-05-22.1. Gas and Oil Regulations.** The existing regulation governing development, operation, and reclamation of gas and oil operations in Virginia will be repealed concurrently with promulgation of the VR 480-05-22.1 Gas and Oil Regulations which will govern development, operations and reclamation of gas, oil or geophysical operations in Virginia.

Statutory Authority: §§ 45.1-1.3 and 45.1-361.27 of the Code of Virginia.

Written comments may be submitted until March 29, 1991.

**Contact:** B. Thomas Fuller, Gas and Oil Inspector, Department of Mines, Minerals and Energy, Division of Gas and Oil, P.O. Box 1416, 230 Charwood Dr., Abingdon, VA 24210, telephone (703) 628-8115, SCATS 676-5501 or toll-free 1-800-552-3831.

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**March 26, 1991 - 10 a.m. – Public Hearing**  
Department of Social Services, S.W. Virginia Regional Office, 190 Patton Street, Abingdon, Virginia.

**March 27, 1991 - 1 p.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 Mines, Minerals and Energy intends to amend regulations entitled: **VR 480-05-96. Regulations Governing Vertical Ventilation Holes and Mining near Gas and Oil Wells.** The regulation provides requirement for safe operation of vertical mine ventilation holes and for safe mining near gas and oil wells.

Statutory Authority: §§ 45.1-1.3(4), 45.1-92.1 and 45.1-104 of the Code of Virginia.

Written comments may be submitted until 5 p.m., March 29, 1991.

**Contact:** Bill Edwards, Policy Analyst, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-0330.

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**April 29, 1991 - 10 a.m. – Public Hearing**  
Virginia Division of Mined Land Reclamation, Upstairs Conference Room, 622 Powell Avenue, Big Stone Gap, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled: **VR 480-03-19. Coal Surface Mining Reclamation Regulations.** The proposed amendments define ownership and control of coal mining operations for the purpose of tracking outstanding

regulatory violations and blocking permitted activity until such violations are abated.

Statutory Authority: §§ 45.1-1.3 and 45.1-230 of the Code of Virginia.

Written comments may be submitted until 5 p.m., April 29, 1991.

**Contact:** Bill Edwards, Policy Analyst, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-0330.

## VIRGINIA MUSEUM OF NATURAL HISTORY

### Research and Collections Committee

† **March 13, 1991 - 2 p.m. – Open Meeting**  
Hampden-Sydney College, Eggleston Library, Jones Room, Hampden-Sydney, Virginia. ☒

The meeting will include discussion of ownership of loaned collections, budget contingencies and their implications for research, progress on publications, report by chairman on visits to curators, and development of collections policy.

**Contact:** Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (703) 666-8616, SCATS 857-6950/857-6951 or (703) 666-8638/TDD ☎

### Executive Committee

† **March 20, 1991 - 3 p.m. – Open Meeting**  
Linden Row Inn, 100 East Franklin Street, Richmond, Virginia. ☒

A meeting to discuss budget contingencies, facility proposals, status of loaned collections, reopening plans, and miscellaneous items.

**Contact:** Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (703) 666-8616, SCATS 857-6950/857-6951 or (703) 666-8638/TDD ☎

## NORFOLK STATE UNIVERSITY

### Board of Visitors

† **March 11, 1991 - 10 a.m. – Open Meeting**  
The Board Room of the Harrison B. Wilson Administration Building, Norfolk, Virginia.

The Audit and Finance Subcommittee will meet.

**Contact:** Gerald D. Tyler, Norfolk State University, 2401 Corprew Ave., Wilson Hall - S340, Norfolk, VA 23504, telephone (804) 683-8373.

## BOARD OF NURSING

† **March 25, 1991 - 9 a.m.** – Open Meeting  
† **March 26, 1991 - 9 a.m.** – Open Meeting  
† **March 27, 1991 - 9 a.m.** – Open Meeting  
Department of Health Professions, 1601 Rolling Hills Drive,  
Conference Room 1, Richmond, Virginia. ☒

A regular meeting of the board 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.

Public comment will be received during an open forum session beginning at 11 a.m. on Monday 25, 1991.

**Contact:** Corrine F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

## BOARD OF NURSING HOME ADMINISTRATORS

† **May 13, 1991** – 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 Nursing Home Administrators intends to amend regulations entitled: **VR 500-01-2:1. Regulations of the Board of Nursing Administrators.** The purpose of the proposed regulations is to establish standards for the practice of nursing home administration.

## STATEMENT

**Basis:** Title 54.1, §§ 54.1-2400 and 54.1-3101 of the Code of Virginia provide the statutory basis for promulgation of the Regulations of the Board of Nursing Home Administrators. The Board of Nursing Home Administrators has approved the proposed revisions for a 60-day public comment period.

**Purpose:** The regulations are modified and proposed in order to: (i) incorporate emergency regulations on endorsement that went into effect December 5, 1990 and (ii) to revise the continuing education and administrator-in-training sections for ease of compliance and clarity.

**Impact:** On October 3, 1990, the Board of Nursing Home Administrators reaffirmed its July 7, 1990, adoption of the final regulations of the board, published in the Virginia Register July 16, 1990, effective August 15, 1990. The proposed revisions will modify the current regulations by (i) including provisions for licensure by endorsement, (ii) clarifying continuing education requirements, and (iii) relaxing regulations in the administrator-in-training program. Accordingly, the impact on nursing home administrators subject to licensure by the Board of Nursing

Home Administrators includes the following:

1. Licensure of nursing home administrators through endorsement affords a less restrictive option of licensure of out-of-state candidates. The impact is positive.
2. Clarification of continuing education requirements allows ease of compliance determination for licensees and has a positive impact.
3. Relaxation of the administrator-in-training program allows the AIT candidate three options for compliance with his program rather than the one mandated requirement of the August 15, 1990, regulations. The change is less restrictive and the impact for the licensee is positive.

Statutory Authority: §§ 54.1-2400 and 54.1-3101 of the Code of Virginia.

Written comments may be submitted until May 13, 1991.

**Contact:** Meredyth P. Partridge, Board Administrator, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-7390.

## COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE

† **April 5, 1991 - 1:30 p.m.** – Public Hearing  
Department of Health Professions, 1601 Rolling Hills Dr., Conference Room 1, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A public hearing to receive public comments on existing Regulations Governing the Licensure of Nurse Practitioners as a first step in a biennial review of these regulations.

The meeting will be followed by a regular meeting to consider matters related to the regulation of nurse practitioners in the Commonwealth.

**Contact:** Corinne F. Dorsey R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

## BOARD OF OPTOMETRY

**March 13, 1991 - 8:30 a.m.** – Open Meeting  
Department of Health Professions, 1601 Rolling Hills Dr., Conference Room 3, Richmond, Virginia.

Informal conferences.

**Contact:** Lisa J. Russell, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804)

# Calendar of Events

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662-9910.

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† **July 18, 1991 - 10 a.m.** - Public Hearing  
1601 Rolling Hills Dr., Conference 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 Optometry intends to amend regulations entitled: **VR 510-01-1. Regulations of the Virginia Board of Optometry.** The purpose of this action is to amend the regulations for purpose of fee changes, clarification of licensing, examinations, renewal, reinstatement procedures, clarification of unprofessional conduct, and continuing education requirements.

## STATEMENT

**Basis:** Sections 54.1-2400 and 54.1-3200 of the Code of Virginia authorize the Board of Optometry to promulgate regulations.

**Purpose:** The proposed regulations state the requirements for licensure and practice as an optometrist. Existing regulations are amended to reflect fee changes. The proposed regulations will provide clarification of licensing, renewal, unprofessional conduct, continuing education requirements, and reinstatement procedures. Professional designation is amended to lessen the restrictions in use.

### Impact:

Regulated Entities:

Optometrists 1097

Fee decreases will affect only a small percentage of licensees. The decrease is for reinstatement of licensure. We have an average of four reinstatements per year.

Statutory Authority: § 54.1-2400 and Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1 of the Code of Virginia.

Written comments may be submitted until July 18, 1991.

**Contact:** Lisa J. Russell, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9915 or SCATS (804) 662-9910.

## VIRGINIA PEANUT BOARD

† **March 18, 1991 - 10 a.m.** - Open Meeting  
Tidewater Agricultural Experiment Station, Holland Station,  
Suffolk, Virginia. ☐

A meeting to review peanut research projects for possible funding in 1991.

**Contact:** Russell C. Schools, P.O. Box 149, Capron, VA 23829, telephone (804) 658-4573.

## POLYGRAPH EXAMINERS ADVISORY BOARD

† **March 19, 1991 - 9 a.m.** - Open Meeting  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia. ☐

The meeting is for the purpose of administering the Polygraph Examiners licensing examination to eligible polygraph examiner interns and to consider other matters which require board action.

**Contact:** Gerald W. Morgan, Administrator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8534.

## BOARD OF PROFESSIONAL COUNSELORS

**March 18, 1991 - 9 a.m.** - Open Meeting  
9504 A Lee Highway, Fairfax, Virginia.

An examination committee meeting. No public comments will be received.

**Contact:** Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Department of Health Professions, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9912.

## BOARD FOR PROFESSIONAL SOIL SCIENTISTS

**March 18, 1991** - 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 for Professional Soil Scientists intends to amend regulations entitled: **VR 627-02-01. Board for Professional Soil Scientists Regulations.** The proposed action will amend fees to assure the board's compliance with § 54.1-113 of the Code of Virginia.

Statutory Authority: §§ 54.1-113 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until March 18, 1991.

**Contact:** Nelle P. Hotchkiss, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

## BOARD OF PSYCHOLOGY

† **March 21, 1991 - 9 a.m.** - Open Meeting  
Department of Health Professions, Conference Room 4,  
1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to conduct board business and to continue regulatory review. Public comment will not be received. Written comments may be submitted until March 6, 1991, for distribution.

Contact: Evelyn Brown, Executive Director, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229-5005, telephone (804) 662-9913 or (804) 662-7197/TDD ☎

VIRGINIA RACING COMMISSION

† March 20, 1991 - 9:30 a.m. - Open Meeting  
VSRS Building, 1204 East Main Street, Richmond, Virginia. ☒

A regular commission meeting including review of proposed regulations pertaining to racehorses, entries, Virginia Breeders Fund, and flat racing.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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April 17, 1991 - 9:30 a.m. - Public Hearing  
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-03-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Participants.** This proposed regulation establishes the duties, qualifications and responsibilities of participants in horse racing.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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April 17, 1991 - 9:30 a.m. - Public Hearing  
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-04-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Claiming Races.** This proposed regulation establishes procedures and conditions under which claiming races will be conducted at horse racing facilities licensed by the commission.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until April 26, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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† April 17, 1991 - 9:30 a.m. - Public Hearing  
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-05-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Standardbred Racing.** The proposed regulation will establish the conditions, procedures and driving rules for the conduct of Standardbred racing.

STATEMENT

Purpose: This proposed regulation, VR 662-05-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Standardbred Racing, sets forth the conditions, procedures, and driving rules for the conduct of Standardbred racing, which is trotting and pacing horses hitched to sulkies. It is essential that the conditions, procedures, and driving rules be clearly delineated so that the racing will be of the highest quality and integrity.

Estimated impact:

1. Entities affected:

Those permit holders desiring to participate in Standardbred racing, i.e., owners, trainers, drivers, will be directly affected. These holders of permits will have to conform their conduct to the conditions, procedures and driving rules set forth in this proposed regulation. However, it should be noted that the commission has closely followed the uniform regulations of Racing Commissioners International (RCI), those of neighboring jurisdictions, and those of the United States Trotting Association in the development of this proposed regulation.

In the October 8, 1990, issue of The Virginia Register, the commission caused to be published a Notice of Intended Regulatory Action requesting input from interested parties in the development of the regulation pertaining to Standardbred racing. The commission allocated time during its regular monthly meeting to a discussion of the proposed regulation. Counsel from the Attorney General's Office was present and commented upon the draft. Copies of the drafts were distributed to the commission's advisory group, which includes representatives of the Virginia Harness Horse Association.

This regulation represents a consensus of the commissioners and the parties who participated in the drafting process. This regulation specifies the conditions that shall prevail and the procedures that shall be followed in the conduct of Standardbred racing ranging

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from the arrival of the horse in the paddock prior to the race to the completion of the race.

## 2. Fiscal impact:

a. Cost to affected entities: Before a person can participate in Standardbred racing, the person must have applied for a permit from the commission which includes an application fee and the cost of fingerprinting. The fees will depend upon the category in which the person is participating in Standard racing. The licensee will have to lease a starting gate and retain appropriate officials to administer this regulation. The categories and numbers of racing officials are spelled out in an earlier regulation. However, these positions are accepted as industry standards.

b. Cost to the Commission: There will be some cost to the commission in retaining racing officials to administer this regulation. The commission will retain two or more stewards to administer this regulation, decide on protests and objections, and issue rulings. The cost will depend upon the number of racing days. Further, there will be some costs associated with hearing appeals from stewards' rulings.

c. Source of commission funds: The cost of initially administering this regulation will be drawn from a loan on a treasury note. It is anticipated that the commission's cost in administering this regulation will be covered by the Commonwealth's share of the retainage from pari-mutuel wagering.

## Legal authority:

Section 59.1-369 of the Code of Virginia authorizes the commission to promulgate regulations and establish conditions under which horse racing and pari-mutuel wagering shall be conducted. A copy of the letter from the Attorney General's Office, which indicates that the commission has the statutory authority to promulgate the proposed regulation, is included in the Regulation Review Package.

## Statement of need:

This regulation is essential for the conduct of Standardbred racing at race meetings licensed by the commission. First, the various permit holders must clearly understand the procedures to be followed in the conduct of the racing. Second, they must understand the conditions under which their participation in racing is to occur. Finally, the drivers must understand the various restrictions and responsibilities in driving Standardbreds.

## Small business impact:

There will be relatively little or no impact upon small business due to this regulation.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until May 13, 1991.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

## REAL ESTATE APPRAISER BOARD

† **March 19, 1991 - 10 a.m. – Open Meeting**  
Department of Commerce, 5th Floor, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

**Contact:** Demetra Y. Kontos, Assistant Director, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-2175 or (804) 367-9753/TDD ☎

## THE REFORESTATION OF TIMBERLANDS BOARD

**March 14, 1991 - 10 a.m. – Open Meeting**  
Old Norwood Plantation, 3.6 miles West of Virginia on Route 647 in Nelson County, Virginia.

Semiannual meeting of the board to review accomplishments and budget.

**Contact:** Phil Grimm, Assistant Chief, Forest Management, Department of Forestry, Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555 or SCATS 487-1230.

## VIRGINIA RESOURCES AUTHORITY

† **March 12, 1991 - 10 a.m. – Open Meeting**  
Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet (i) to approve minutes of the meeting of February 12, 1991; (ii) to review the authority's operations for the prior months; and (iii) to consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

**Contact:** Shockley D. Gardner, Jr., Mutual Building, 909 E. Main St., Suite 707, Richmond, VA 23219, telephone (804) 644-3100 or FAX Number (804) 644-3109.

## STATE BOARD OF SOCIAL SERVICES

† **March 20, 1991 - 2 p.m.** – Open Meeting  
† **March 21, 1991 - 9 a.m.** – Open Meeting  
Fredericksburg Sheraton, Exit 45-B off I-95, 2801 Plank Road, Fredericksburg, Virginia. ☒

A work session and formal business meeting.

**Contact:** Phyllis Sisk, Administrative Staff Specialist, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9236.

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

**April 26, 1991 - 10 a.m.** – Public Hearing  
Tyler Building, Suite 220, Conference Room, 8007 Discovery Drive, Richmond, Virginia.

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 615-08-01. Virginia Energy Assistance Program.** The proposed amendment will change the Cooling Assistance start date to July 1, 1991.

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

Written comments may be submitted until April 26, 1991, to Charlene H. Chapman, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia.

**Contact:** Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

## BOARD OF SOCIAL WORK

† **March 22, 1991 - 9 a.m.** – Open Meeting  
1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia.

A meeting to conduct general board business and respond to correspondence.

**Contact:** Evelyn Brown, Executive Director, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229, telephone (804) 662-9914.

## VIRGINIA SOIL AND WATER CONSERVATION BOARD

**March 21, 1991 - 9 a.m.** – Open Meeting  
Comfort Inn, Corporate Gateway, 8710 Midlothian Turnpike, Richmond, Virginia.

Bimonthly business meeting and tour of state regulated dam sites in Chesterfield County.

**Contact:** Donald L. Wells, Deputy Director, Department of Conservation and Recreation, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064.

## STATE CORPORATION COMMISSION

† **March 26, 1991 - 10 a.m.** – Open Meeting  
State Corporation Commission, Jefferson Building, 13th Floor Courtroom, Bank and Governor Streets, Richmond, Virginia.

A meeting to consider promulgation of regulations relating to Road Tax on Motor Carriers.

**Contact:** Graham G. Ludwig, Jr., State Corporation Commission, P.O. Box 1197, Richmond, VA 23209, telephone (804) 786-8671. Persons wishing to speak should contact William J. Bridge, Clerk, State Corporation Commission, P.O. Box 1197, Richmond, VA 23209, telephone (804) 786-3672.

## VIRGINIA SWEET POTATO BOARD

† **March 13, 1991 - 8 p.m.** – Open Meeting  
Eastern Shore Agricultural Experiment Station, Painter.

A general board business meeting.

**Contact:** Bill Mapp, Program Director, P.O. Box 26, Onley, VA 23419, telephone (804) 787-3720 or 787-5806.

## VIRGINIA'S TRANSITION TASK FORCE

**March 14, 1991 - 10 a.m.** – Open Meeting  
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter of deaf provided if requested)

Representatives of 13 state agencies and the community will meet to develop strategies to develop and implement transition services for youth and young adults with disabilities throughout the Commonwealth. Business meeting begins at 10 a.m. Public comment (verbal or written) on transition efforts, issues, barriers, service gaps, best practices, policies, etc., is encouraged. Public comment time 11:30 a.m. to 12:30 p.m. Written comments will be read and may be sent to Mr. Tom Bass, Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, VA 23230.

**Contact:** Sharon deFur, Coordinator/Transition Services, Virginia Department of Education, P.O. Box 6Q, Richmond, VA 23216, telephone (804) 225-2880 or (804) 225-2886/TDD

# Calendar of Events

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## COMMONWEALTH TRANSPORTATION BOARD

**March 20, 1991 - 2 p.m. - Open Meeting**  
Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A work session of the board and staff.

**March 21, 1991 - 10 a.m. - Open Meeting**  
Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

**Contact:** John G. Milliken, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6670.

## TREASURY BOARD

### CHANGE IN MEETING DATE

**March 13, 1991 - 9 a.m. - Open Meeting**  
**April 17, 1991 - 9 a.m. - Open Meeting**  
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regularly scheduled meeting of the board.

**Contact:** Laura Wagner-Lockwood, Senior Debt Manager, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4931.

## DEPARTMENT OF THE VISUALLY HANDICAPPED

### Advisory Committee on Services

† **April 20, 1991 - 11 a.m. - Open Meeting**  
Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to consider matters related to services for blind and visually handicapped citizens of the Commonwealth.

**Contact:** Barbara G. Tyson, Executive Secretary, 397

Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3350, toll-free 1-800-622-2155 or 371-3140/TDD ☎

## VIRGINIA VOLUNTARY FORMULARY BOARD

† **April 17, 1991 - 10 a.m. - Public Hearing**  
109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

The purpose of this hearing is to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on April 23, 1990, and the most recent supplement to that Formulary. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on April 17, 1991, will be made a part of the hearing record and considered by the Board.

**Contact:** James K. Thomson, Director Bur Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326 or 786-3596.

## VIRGINIA WASTE MANAGEMENT BOARD

**April 15, 1991 - 10 a.m. - Open Meeting**  
Monroe Building, 11th Floor, 101 North 14th Street, Richmond, Virginia. ☒

An informational meeting will be held for Amendment 9 to the Regulations Governing the Transportation of Hazardous Materials. The proposed amendment will incorporate by reference changes that were made by U.S. DOT to Title 49 Code of Federal Regulations from July 1, 1989, to June 30, 1990. Therefore, this amendment (with the possible exception of the requirements relating to mandatory drug testing program) is not expected to have a significant impact on the regulated community.

**Contact:** C. Ronald Smith, Hazardous Waste Enforcement Chief, Virginia Department of Waste Management, 11th Fl., Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2667 or toll-free 1-800-552-2075.

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PLEASE NOTE CHANGE OF WRITTEN COMMENTS DATE

**April 15, 1991 - 11 a.m. - Public Hearing**  
Monroe Building, 101 North 14th Street, 11th Floor, Richmond, Virginia.

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 672-30-1. Regulations Governing the Transportation of Hazardous Materials.** The purpose of the amendments is to incorporate by reference changes that were made by U.S. DOT to Title 49 Code of Federal Regulations from July 1, 1989 to June 30, 1990.

Statutory Authority: §§ 10.1-1402 and 10.1-1450 of the Code of Virginia.

Written comments may be submitted until April 15, 1991, to William E. Gilley, P.E., Director of Regulation, Department of Waste Management, 101 N. 14th St., 11th Floor, Monroe Bldg., Richmond, Va.

**Contact:** C. Ronald Smith, Hazardous Waste Enforcement Chief, 11th Fl., Monroe, Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2667 or toll-free 1-800-552-2075.

## STATE WATER CONTROL BOARD

**March 12, 1991 - 7 p.m. – Public Hearing**  
Blackstone Town Council Chambers, 100 West Elm Street, Municipal Building, Blackstone, Virginia. ☒

A public hearing to receive comments on the proposed reissuance of Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0025194 for the Fort Pickett Waste Water Treatment Plan (WWTP), Building 234, Fort Pickett, Blackstone, Virginia 23824. The purpose of the hearing is to receive comments on the proposed permit, the reissuance or denial of the permit, and the effect of the discharge on water quality or beneficial uses of state waters.

**Contact:** Lori A. Freeman, Hearing Reporter, Office of Policy Analysis, State Water Control Board, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230, telephone (804) 376-6815.

**March 25, 1991 - 9 a.m. – Open Meeting**  
**March 26, 1991 - 9 a.m. – Open Meeting**  
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia.

A regular quarterly meeting.

**Contact:** Doneva A. Dalton, Office of Policy Analysis, State Water Control Board, P.O. Box 11143, 2111 N. Hamilton St., Richmond, VA 23230, telephone (804) 367-6829.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **March 27, 1991 - 8:30 a.m. – Open Meeting**

† **March 28, 1991 - 8:30 a.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

An open meeting to conduct regulatory review.

**Contact:** Gerald W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

## VIRGINIA WINEGROWERS ADVISORY BOARD

**April 8, 1991 - 10 a.m. – Open Meeting**  
Oakencroft Vineyard and Winery, Charlottesville Virginia.

The board will hear reports from Committee chairs and project monitors, and review old and new business. The board will also hear and vote on new project proposals for the 91-92 Fiscal Year.

**Contact:** Annette C. Ringwood, Wine Marketing Specialist, 1100 Bank St., Suite 1010, Richmond, VA 23219, telephone (804) 371-7685



## BOARD OF YOUTH AND FAMILY SERVICES

**March 14, 1991 - 9 a.m. – Open Meeting**  
700 Centre Building, 4th Floor, 7th and Franklin Streets, Richmond, Virginia.

A general business meeting.

**Contact:** Paul E. Steiner, Regulatory Coordinator, 700 Centre Building, 4th Floor, 7th and Franklin Streets, Richmond, VA 23219, telephone (804) 371-0700.

## LEGISLATIVE

### COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

**March 7, 1991 - 10 a.m. – Open Meeting**  
General Assembly Building, House Room D, Richmond, Virginia.

A work session.

# Calendar of Events

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**Contact:** Katherine L. Imhoff, Executive Director,  
Commission on Population Growth and Development, Room  
519, General Assembly Building, Richmond, VA 23219,  
telephone (804) 371-4949 or 786-7303.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### March 11

ASAP Policy Board, Valley  
Local Government Advisory Council  
Local Government, Commission on  
† Norfolk State University  
- Board of Visitors

#### March 12

Contractors, Board for  
† Emergency Planning Committee, Local - County of  
Montgomery/Town of Blacksburg  
Medicine, Board of  
† Resources Authority, Virginia  
Shenandoah Scenic River Advisory Board  
Water Control Board, State

#### March 13

† Conservation and Recreation, Department of  
Corrections, Board of  
Funeral Directors and Embalmers, Board of  
Library Board  
Optometry, Board of  
† Sweet Potato Board  
Treasury Board

#### March 14

† Air Pollution Control Board, State  
Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for  
Child Day-Care Council  
Compensation Board  
† Corrections, Board of  
- Liaison Committee  
† Housing and Community Development, Board of  
- Amusement Device Technical Committee  
Reforestation of Timberlands Board  
Transition Task Force, Virginia  
Youth and Family Services, Board of

#### March 15

† Child Day-Care Council  
Interdepartmental Regulation of Residential Facilities  
for Children  
- Coordinating Committee  
Land Surveyors, Board for  
Medicine, Board of

#### March 16

Dentistry, Board of

#### March 17

† Museum of Natural History, Virginia  
- Board of Trustees  
- Research and Collections Committee

#### March 18

Alcoholic Beverage Control Board  
Commerce, Board of  
† Governor's Job Training Coordinating Council  
Local Emergency Planning Committee, County of  
Prince William, City of Manassas, and City of  
Manassas Park  
† Peanut Board, Virginia  
Professional Counselors, Board of

#### March 19

† Council on Child Day Care and Early Childhood  
Programs, Virginia  
† Housing Development Authority, Virginia  
† Marine Products Board, Virginia  
† Medicare and Medicaid, Governor's Advisory Board  
† Polygraph Examiners Advisory Board  
† Real Estate Appraiser Board

#### March 20

Community Colleges, State Board for  
† Game and Inland Fisheries, Board of  
† Museum of Natural History, Virginia  
- Board of Trustees  
- Executive Committee  
† Racing Commission, Virginia  
† Social Services, State Board of  
Transportation Board, Commonwealth

#### March 21

† Alcohol Safety Action Program, Rockingham -  
Harrisonburg  
Community Colleges, State Board for  
Conservation and Recreation, Department of  
- Guest Scenic River Advisory Board  
† Emergency Planning Committee, Local - Prince  
George County  
† Game and Inland Fisheries, Board of  
† Psychology, Board of  
Soil and Water Conservation Board, Virginia  
Transportation Board, Commonwealth

#### March 22

† Architects, Professional Engineers, Land Surveyors  
and Landscape Architects, Board for  
† Game and Inland Fisheries, Board of  
Information Management, Council on  
Medicine, Board of  
- Informal Conference Committee  
† Social Work, Board of

#### March 25

Lottery Board, State  
† Nursing, Board of  
Water Control Board, State

# Calendar of Events

## March 26

† Air Pollution, Department of  
Contractors, Board for  
- Recovery Fund Committee  
Health Services Cost Review Council  
† Marine Resources Commission, Virginia  
† Nursing, Board of  
† State Corporate Commission  
Water Control Board, State

## March 27

Council on Indians  
† Medical Assistance Services, Board of  
Mental Health, Mental Retardation and Substance  
Abuse Services Board, State  
† Nursing, Board of  
† Waterworks and Wastewater Works Operators, Board  
for

## March 28

Aging, Department for the  
- Long-Term Care Ombudsman Program Advisory  
Council  
Contractors, Board for  
† Council on Child Day Care and Early Childhood  
Programs, Virginia  
† Education, Board of  
† Labor and Industry, Department of  
- Virginia Apprenticeship Council  
† Waterworks and Wastewater Works Operators, Board  
for

## March 29

† Education, Board of

## April 4

Chesapeake Bay Local Assistance Board  
† Council on Child Day Care and Early Childhood  
Programs, Virginia  
Emergency Planning Committee, Local - Chesterfield  
County

## April 5

Medicine, Board of  
- Executive Committee  
† Nursing and Medicine, Committee of the Joint  
Boards

## April 6

Medicine, Board of  
- Credentials Committee

## April 8

† Mental health, Mental Retardation and Substance  
Abuse Services, Virginia Department of  
Winegrowers Advisory Board, Virginia

## April 10

† Council on Child Day Care and Early Childhood  
Programs, Virginia  
† Funeral Directors and Embalmers, Board of

## April 15

† Health Professions, Department of, Board of  
- Regulatory Research Committee  
Waste Management, Department of

## April 17

† Corrections, Board of  
Treasury Board  
† Voluntary Formulary Board, Virginia

## April 18

Conservation and Recreation, Department of  
- Guest Scenic River Advisory Board  
† Health Professions, Department of, Board of  
- Administration and Budget Committee  
Medicine, Board of  
- Chiropractic Examination Committee

## April 19

† Funeral Directors and Embalmers, Board of  
Interdepartmental Regulation of Residential Facilities  
for Children  
- Coordinating Committee

## April 20

† Visually Handicapped, Department for  
- Advisory Committee on Services

## April 22

† Emergency Response Council, Virginia

## April 24

Dentistry, Board of

## April 25

Compensation Board  
Dentistry, Board of  
† Emergency Planning Committee, Local - Arlington  
County/City of Falls Church

## April 26

Dentistry, Board of

## April 27

Dentistry, Board of

## April 28

† Longwood College  
- Board of Visitors

## April 29

† Local Government, Commission on

## April 30

† Local Government, Commission on

## May 1

† Local Government, Commission on

## May 2

Emergency Planning Committee, Local - Chesterfield

# Calendar of Events

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County

**May 3**  
Medicine, Board of  
- Advisory Board on Physical Therapy

**May 10**  
† Medicine, Board of  
- Advisory Committee on Optometry for T.P.A.

## PUBLIC HEARINGS

**March 11**  
Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for

**March 14**  
Commerce, Department of

**March 26**  
Mines, Minerals and Energy, Department of

**March 27**  
Mines, Minerals and Energy, Department of

**April 15**  
Waste Management, Department of

**April 17**  
Racing Commission, Virginia

**April 25**  
Health, Department of, State Board of

**April 26**  
Social Services, Department of

**April 29**  
Mines, Minerals and Energy, Department of

**May 10**  
Agriculture and Consumer Services, Department of  
- Pesticide Control Board

**July 18**  
† Optometry, Board of