

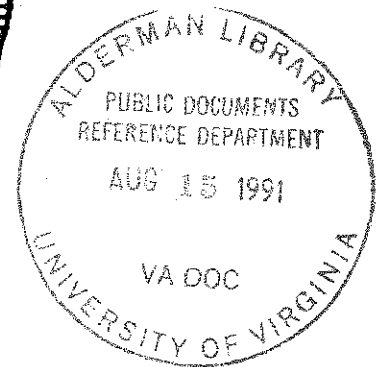
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# THE VIRGINIA REGISTER

OF REGULATIONS

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August 12, 1991

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Pages 3549 Through 3694

## VIRGINIA REGISTER

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

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

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

### ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall

be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

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

### EMERGENCY REGULATIONS

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

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

### STATEMENT

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

### CITATION TO THE VIRGINIA REGISTER

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# PROPOSED REGULATIONS

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## Symbol Key

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

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

**Title of Regulation:** VR 460-04-8.3. Client Medical Management Program.

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

**Public Hearing Date:** N/A

Written comments may be submitted until October 12, 1991  
(See Calendar of Events section  
for additional information)

### Summary:

*This regulatory package replaces the current emergency regulation entitled Expansion of the Client Medical Management Program (VR 460-04-8.3).*

*Under the Virginia Client Medical Management Program, DMAS assigns clients who abuse or overuse services to primary care physicians and designated pharmacies for case management. The program also prohibits providers who abuse or provide unnecessary services from being designated as primary care providers for recipients in the program.*

*Revisions to the Client Medical Management regulations are necessary to expedite the utilization review process in order to increase the caseload to the targeted levels. New criteria that specify utilization levels which are considered excessive will allow DMAS' staff to determine more efficiently the clients' needs for coordination of medical care. More recipients of medical assistance will be evaluated for care coordination. Appropriateness of placement in care coordination will be ensured by the combined use of numeric thresholds and DMAS medical staff's reviews.*

*These regulatory revisions are also necessary to support the department in its administrative appeals process by defining the amount, duration and scope of certain medically unnecessary services.*

*The utilization patterns which serve as criteria for recipient restriction are listed in §§ 2 D and 2 J of the proposed regulations. There are several changes from the emergency regulatory package. Numeric thresholds have been adjusted for several criteria (D.3, h and l) using statistical data available through the Surveillance and Utilization Review Subsystem (SURS) of the Medicaid Management Information System.*

*New criteria (§ 2 D 3, m-n) recommended by health care providers have been added to help identify abusive utilization patterns which are substantiated upon review by DMAS staff and noncompliant behaviors which result in abuse. These would be used for both initial review of recipient activity and review of restricted recipients prior to the end of each restriction period to determine the need for continued utilization controls.*

*Experience in completing reviews on restricted recipients has shown the need for additional written criteria to address compliance with DMAS policy and recommendations of the designated provider(s). In addition to the changes described above, another new criterion (§ 2 J 1 d) will allow continued restriction when restricted recipients have had one or more changes of designated provider due to the breakdown of the recipient/provider relationship. These breakdowns may result from recipients' noncompliance with Client Medical Management policy and procedures or noncompliance with recommended medical care which results in abuse.*

*The result of frequent provider changes is that the recipient continues to receive fragmented medical care which may increase costs to the department. These recipients need more time to practice appropriate utilization of medical services and demonstrate compliance.*

*Currently all recipient restriction periods are for 18 months. § 2 E 5 has been added to extend the restriction period to 24 months when a recipient has completed a period of enrollment in Client Medical Management and is subsequently found to have resumed abusive utilization practices once unrestricted. A longer restriction is expected to be more effective in changing inappropriate utilization patterns by giving recipients more time to practice compliance. It is expected to also serve as a greater deterrent to misuse of services.*

*There have been two changes in the emergency regulations regarding approval of recipient and provider restrictions. Approval authority for recipient restriction (§ 2 4) and provider restriction (§ 3 D 4) has been removed because they were procedural.*

VR 460-04-8.3. Client Medical Management Program.

§ 1. Definitions.

# Proposed Regulations

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

**"APA"** means the Administrative Process Act established by Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

**"Abuse by recipients"** means a pattern of practice by a provider or a pattern of health care utilization by a recipient recipients which is inconsistent with sound fiscal ; business, or medical practices and results in unnecessary costs to the Virginia Medicaid program ; or in reimbursement for a level of utilization or pattern of services that are not medically necessary or that fail to meet professionally recognized standards for health care .

**"Abuse by providers"** means practices which are inconsistent with sound fiscal, business, or medical practices and result in unnecessary costs to the Virginia Medicaid Program or in reimbursement for a level of utilization or pattern of services that is not medically necessary.

**"Card-sharing"** means the intentional sharing of a recipient eligibility card for use by someone other than the recipient for whom it was issued, or a pattern of repeated unauthorized use of a recipient eligibility card by one or more persons other than the recipient for whom it was issued due to the failure of the recipient to safeguard the card.

**"Client Medical Management Program for recipients"** means the recipients' utilization control program designed to promote improved and cost efficient medical management of essential health care for noninstitutionalized recipients through restriction to one primary care provider and one pharmacy. Referrals may not be made to providers restricted through the Client Medical Management Program, nor may restricted providers serve as covering providers.

**"Client Medical Management Program for providers"** means the providers' utilization control program designed to complement the recipient utilization control program in promoting improved and cost efficient medical management of essential health care. Restricted providers may not serve as designated providers for restricted recipients. Restricted providers may not serve as referral or covering providers for restricted recipients.

**"Code of Federal Regulations"** or **"CFR"** means that codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

**"Contraindicated medical care"** means treatment which is medically improper or undesirable and which results in duplicative or excessive utilization of services.

**"Contraindicated use of drugs"** means the concomitant

use of two or more drugs whose combined pharmacologic action produces an undesirable therapeutic effect or induces an adverse effect by the extended use of a drug with a known potential to produce this effect.

**"Covering provider"** means a provider designated by the primary provider to render health care services in the temporary absence of the primary provider.

**"DMAS"** means the Department of Medical Assistance Services.

**"Designated provider"** means the provider who agrees to be the primary health care provider or designated pharmacy from whom the restricted recipient must first attempt to seek health care services.

**"Diagnostic category"** means the broad classification of diseases and injuries found in the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) which is commonly used by providers in billing for medical services.

**"Drug "** means a substance or medication intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease as defined by the Virginia Drug Control Act (§ 54.1-524.2 et seq. of the Code of Virginia).

**"Duplicative medical care"** means two or more practitioners concurrently treat the same or similar medical problems or conditions falling into the same diagnostic category, excluding confirmation for diagnosis, evaluation, or assessment.

**"Duplicative medications"** means more than one prescription of the same drug or more than one drug in the same therapeutic class or with similar pharmacologic actions.

**"Emergency hospital services"** means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

**"Excessive medical care"** means obtaining greater than necessary services such that health risks to the recipient or unnecessary costs to the Virginia Medicaid Program may ensue from the accumulation of services or obtaining duplicative services.

**"Excessive medications"** means obtaining medication in excess of generally acceptable maximum therapeutic dosage regimens or obtaining duplicative medication from more than one practitioner.

**"Fraud"** means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable federal or state

# Proposed Regulations

AWS.

"Health care" means any covered services, including equipment or supplies, provided by any individual, organization, or entity that participates in the Virginia Medical Assistance Program.

"Health Care Financing Administration (HCFA)" means that unit of the federal Department of Health and Human Services which administers the Medicare and Medicaid programs.

"Client Medical Management Program" for recipients means the recipients' utilization control program designed to promote improved and cost-efficient medical management of essential health care for noninstitutionalized recipients through restriction to one primary care provider and one pharmacy.

"Client Medical Management Program" for providers means the providers' utilization control program designed to complement the recipient utilization control program in promoting improved and cost-efficient medical management of essential health care. Restricted providers may not serve as designated providers for restricted recipients.

"Medical emergency" means a situation in which a delay in obtaining treatment may cause death or lasting injury or harm to serious impairment of the health of the recipient.

"Medical management of essential health care" means a case management approach to health care in which the designated primary physician has responsibility for assessing the needs of the patient and making referrals to other physicians and clinics as needed. The designated pharmacy has responsibility for monitoring the drug regimen of the patient. Coordination of medical services promotes continuity of care and cost efficiency.

"Medically necessary" means necessary for the maintenance, improvement, or protection of health, or lessening of illness, disability, or pain.

"Medicare" means the Health Insurance for the Aged and Disabled enacted by Congress in 1965 as Title XVIII of the Social Security Act.

"Noncompliance" means failing to follow Client Medical Management Program procedures, or a pattern of utilization which is inconsistent with sound fiscal or medical practices. Noncompliance includes, but is not limited to, failure to follow a recommended treatment plan or drug regimen; failure to disclose to a provider any treatment or services provided by another provider; or requests for medical services or medications which are not medically necessary.

"Not medically necessary" means an item or service which is not consistent with the diagnosis or treatment of

the patient's condition or an item or service which is duplicative, contraindicated, or excessive, or results in a pattern of abuse.

"Pattern" means an identifiable series of events or activities resulting in abuse.

"Practitioner" means a health care provider licensed, registered, or otherwise permitted by law to distribute, dispense, prescribe and administer drugs or otherwise treat medical conditions.

"Provider" means the individual or facility registered, licensed, or certified, as appropriate, and enrolled by DMAS to render services to Medicaid recipients eligible for services.

"Psychotropic drugs" means drugs which alter the mental state. Such drugs include, but are not limited to, morphine, barbiturates, hypnotics, antianxiety agents, antidepressants, and antipsychotics.

"Recipient" means the individual who is eligible, under Title XIX of the Social Security Act, to receive Medicaid covered services.

"Recipient eligibility card" means the document issued to each Medicaid family unit, listing names and Medicaid numbers of all eligible individuals within the family unit.

"Restriction" means an administrative action imposed on a recipient which limits access to specific types of medical care and health care services through a designated primary provider(s) provider or an administrative action imposed on a provider to prohibit participation as a designated primary provider, referral, or covering provider for restricted recipients.

"Social Security Act" means the the Act, enacted by the 74th Congress on August 14, 1935, which provides for the general welfare by establishing a system of federal old age benefits, and by enabling the several states to make more adequate provisions for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws.

"State Plan for Medical Assistance" or "the Plan" means the document listing the covered groups, covered services and their limitations, and provider reimbursement methodologies as provided for under Title XIX of the Social Security Act.

"Surveillance and Utilization Review Subsystem (SURS)" means a computer subsystem of the Medicaid Management Information System (MMIS) which collects claims data and computes statistical profiles of recipient and provider activity and compares them with that of their particular peer group.

"Therapeutic class" means a group of drugs with similar



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pharmacologic actions and uses.

"Utilization control" means the control of covered health care services to assure the use of cost efficient, medically necessary and or appropriate services.

## § 2. Authority Client Medical Management Program for recipients .

A. Federal regulations at 42 CFR 456.3 require the Medicaid agency to implement a statewide surveillance and utilization control program. Purpose.

The Client Medical Management Program is a utilization control program designed to promote improved and cost efficient medical management of essential health care.

### B. Authority.

1. Federal regulations at 42 CFR § 456.3 require the Medicaid agency to implement a statewide surveillance and utilization control program.

B. 2. Federal regulations at 42 CFR § 431.54 (e) allow states to restrict recipients to designated providers when the recipients have utilized services at a frequency or amount that is not medically necessary in accordance with utilization guidelines established by the state.

C. Federal regulations at 42 CFR 431.54 (f) allow states to restrict providers from participating in the Medicaid program if the agency finds that the provider of items or services under the State Plan has provided items or services at a frequency or amount not medically necessary in accordance with utilization guidelines established by the state, or has provided items or services of a quality that do not meet professionally recognized standards of health care.

D. DMAS shall not impose restrictions which would result in denying recipients reasonable access to Medicaid services of adequate quality, including emergency services (42 CFR 431.54 (f)(4)).

3. Federal regulations at 42 CFR §§ 455.15 through 455.16 require the Medicaid agency to conduct investigations of abuse by recipients and allow sanctions to be applied.

## § 3. C. Identification of Client Medical Management Program participants.

A. DMAS identifies shall identify recipients for review from computerized exception reports such as but not limited to ( Recipient SURS ) or by referrals from agencies, health care professionals, or other individuals for suspected utilization of unnecessary or inappropriate medical services .

B. DMAS identifies providers for review through

computerized exception reports (Provider SURS) or b. referrals from agencies, health care professionals, or other individuals for suspected provision of unnecessary or inappropriate medical services.

## § 4. D. Participant Recipient evaluation for restriction.

A. 1. DMAS shall review recipients and providers to determine if services are being utilized or provided at a frequency or amount that is results in a level of utilization or a pattern of services which is not medically necessary. Evaluation of utilization patterns for both recipients and providers can include but is not limited to review by the department staff of diagnoses, medical records or computerized reports generated by the department reflecting claims submitted for physician visits, drugs/prescriptions, outpatient and emergency room visits, lab and diagnostic procedures, hospital admissions, and referrals ; and procedures not usually performed by primary health care providers .

2. Recipients demonstrating unreasonable patterns of utilization or exceeding reasonable levels of utilization shall be reviewed for restriction.

B. 3. DMAS shall recommend may restrict recipients for restriction if a pattern of one or more of the following conditions patterns or levels of utilization, including but not limited to the following, is identified:

a. Exceeding 200% of the maximum therapeutic dosage of the same drug or multiple drugs in the same therapeutic class for a period exceeding four weeks.

b. Two occurrences of having prescriptions for the same drugs filled two or more times on the same or the subsequent day.

c. Utilizing services from three or more prescribers and three or more dispensing pharmacies in a three-month period.

d. Receiving more than 24 prescriptions in a three-month period.

e. Receiving more than 12 psychotropic prescriptions or more than 12 analgesic prescriptions or more than 12 prescriptions for controlled drugs with potential for abuse in a three-month period.

f. Exceeding the maximum therapeutic dosage of the same drug or multiple drugs in the same therapeutic class for a period exceeding four weeks and being prescribed by two or more practitioners.

g. Receiving two or more drugs, duplicative in nature or potentially addictive (even within acceptable therapeutic levels), dispensed by more than one pharmacy or prescribed by more than one

# Proposed Regulations

practitioner for a period exceed four weeks.

*h. Utilizing three or more different physicians of the same type or specialty in a three-month period for treatment of the same or similar conditions.*

*i. Two or more occurrences of seeing two or more physicians of the same type or specialty on the same or subsequent day for the same or similar diagnosis.*

*1. j. Duplicative or , excessive , or contraindicated utilization of medications, medical supplies, or appliances dispensed by more than one pharmacy or prescribed by more than one practitioner for the time period specified.*

*2. k. Duplicative or , excessive , or contraindicated utilization of medical visits, procedures, or diagnostic tests from more than one practitioner for the time period specified.*

*3. l. Emergency room use for nonemergency care. Use of emergency hospital services for three or more emergency room visits for nonemergency care during a three-month period.*

*m. One or more providers recommends restriction for medical management because the recipient has demonstrated abusive utilization practices.*

*n. A pattern of noncompliance which is inconsistent with sound fiscal or medical practices and results in abuse. Noncompliance is characterized by, but not limited to:*

*(1) Failure to disclose to a provider any treatment or services provided by another provider; or*

*(2) Failure to follow a drug regimen or other recommended treatment; or*

*(3) Requests for medical services or medications which are not medically necessary.*

*4. o. Use of preauthorized transportation services with no corresponding medical services.*

*5. p. One or more documented occurrences of recipient a recipient's use of recipient the eligibility card to obtain drugs under false pretenses, which includes, but is not limited to the purchase or attempt to purchase drugs or via a forged or altered prescription.*

*6. q. One or more documented occurrences of card-sharing.*

*7. r. One or more documented occurrences of alteration of the recipient eligibility card.*

**C. DMAS shall recommend providers for restriction if a pattern for one or more of the following conditions is identified:**

**1. Visits billed at a frequency or level exceeding that which is medically necessary;**

**2. Diagnostic tests billed in excess of what is medically necessary;**

**3. Billed diagnostic tests which are unrelated to the diagnosis;**

**4. Medications and prescriptions in excess of recommended dosages;**

**5. Medications and prescriptions unrelated to the diagnosis;**

**D. DMAS shall recommend providers for restriction if the provider's license to practice has been revoked or suspended in Virginia by the appropriate licensing board.**

**E. The Director of the Medical Support Section or his designee shall review and approve or disapprove the recommendations for recipient or provider restriction.**

**F. DMAS shall implement restriction without medical review when:**

**1. Recipients have misused their recipient eligibility cards by alteration or card sharing, or both; or**

**2. Recipients have obtained drugs under false pretenses.**

**§ 5. E. Recipient restriction procedures.**

**A. 1. DMAS shall advise affected recipients by written notice of the proposed restriction under the Client Medical Management Program. Written notice shall include an explanation of restriction procedures and the recipient's right to appeal the proposed action.**

**B. 2. The recipient shall have 30 calendar days the opportunity to select designated providers . If a recipient fails to respond by the date specified in the restriction notice, DMAS shall select designated providers.**

**C. 3. The recipient shall have 30 calendar days from the date of the notification to appeal the proposed restriction. DMAS shall not implement restriction if a timely valid appeal is noted. (See § 13 § 2 K .)**

**D. 4. DMAS shall restrict recipients to their designated providers for 18 months .**

**5. A recipient who has completed a period of enrollment in the Client Medical Management Program and who is subsequently found, through the procedures**

# Proposed Regulations

specified in § 2 D of this regulation, to have resumed abusive practices during the unrestricted period, shall again be restricted for 24 months.

## § 6. F. Eligible providers.

A. 1. A designated health care provider must be a physician enrolled as an individual practitioner unrestricted by the Department of Medical Assistance Services DMAS .

B. 2. A designated pharmacy provider must be a pharmacy enrolled as a community pharmacy unrestricted by the Department of Medical Assistance Services DMAS .

C. 3. Restricted recipients shall have reasonable access to all essential medical services. Other provider types such as clinics or ambulatory care centers may be established as designated providers as needed but only with the approval of DMAS. Providers restricted through the Client Medical Management Program may not serve as designated providers, may not provide services through referral, and may not serve as covering providers for restricted recipients.

4. Physicians with practices limited to the delivery of emergency room services may not serve as designated primary providers.

5. Restricted recipients shall have reasonable access to all essential medical services. Other provider types such as clinics or ambulatory care centers may be established as designated providers as needed but only with the approval of DMAS.

## § 7. G. Provider reimbursement for covered services.

A. 1. DMAS shall reimburse for covered outpatient medical, pharmaceutical, and physician services only when they are provided by the designated providers, or by physicians seen on referral from the primary health care provider, or in a medical emergency. Prescriptions may be filled by a nondesignated pharmacy only in emergency situations when the designated pharmacy is closed, or when the designated pharmacy does not stock or is unable to obtain the drug in a timely manner .

B. 2. DMAS shall require a written referral from the primary health care provider for payment of covered outpatient services by nondesignated practitioners unless there is a medical emergency requiring immediate treatment.

## § 8. H. Recipient eligibility cards.

DMAS shall provide an individual recipient eligibility card listing the recipient's designated primary care providers for each restricted recipient .

## § 9. I. Changes in designated providers.

A. 1. DMAS must give prior authorization to all changes of designated providers.

B. 2. The recipient or the designated provider may initiate requests for change for the following reasons:

1. a. Relocation of the recipient or provider.

2. b. Inability of the provider to meet the routine health needs of the recipient.

3. c. Breakdown of the recipient/provider relationship.

C. 3. If the designated provider initiates the request and the recipient does not select a new provider by established deadlines, DMAS shall select a provider, subject to concurrence from the provider.

D. 4. If DMAS denies the recipient's request, the recipient is shall be notified in writing and given the right to appeal the decision. (See § 13 § 2 K .)

## § 10. J. Review of recipient restriction status.

A. 1. DMAS shall review a recipient's utilization prior to the end of the restriction period to determine restriction termination or continuation. (See § 4 § 2 D .) DMAS shall extend utilization control restrictions for 18 months if a pattern for one or more any of the following conditions is identified:

1. a. The recipient's utilization patterns include one or more conditions listed in § 4 B § 2 D 3 .

2. b. The recipient has not complied with Client Medical Management Program procedures resulting in services or medications received from one or more nondesignated providers without a written referral or in the absence of a medical emergency.

3. c. One or more of the designated providers recommends continued restriction status because the recipient has demonstrated noncompliant behavior which is being controlled by Client Medical Management Program restrictions.

d. Any changes of designated provider due to the breakdown of the recipient/provider relationship as a result of the recipient's noncompliance.

B. 2. DMAS shall notify the recipient and designated provider(s) provider in writing of the review decision. If restrictions are continued, written notice shall include the recipient's right to appeal the proposed action. (See § 13 § 2 K .)

C. 3. DMAS shall not implement the continued recipient restriction if a timely valid appeal is noted. /

## 11. Provider restriction procedures.

A. DMAS shall advise affected providers by written notice of the proposed restriction under the Client Medical Management Program. Written notice shall include an explanation of the basis for the decision, request for additional documentation, if any, and notification of the provider's right to appeal the proposed action.

B. The provider shall have 30 calendar days from the date of notification to appeal the proposed restriction. Appeals shall be held in accordance with § 9-6-14:11 et seq. of the Code of Virginia (Virginia Administrative Process Act).

C. DMAS shall restrict providers from being the designated provider for recipients in the Client Medical Management Program for 18 months.

D. DMAS shall not implement provider restriction if a timely appeal is noted.

## § 12. Review of Provider Restriction status.

A. DMAS shall review a restricted provider's claims history record prior to the end of the restriction period to determine restriction termination or continuation (see § 4). DMAS shall extend provider restriction for 18 months in one or more of the following situations:

1. Where new abusive practices are identified.
2. Where the practices which led to restriction continue.

B. In cases where the provider has submitted an insufficient number of claims during the restriction period to enable DMAS to conduct a claims history review, DMAS shall continue restriction until a reviewable six-months claims history is available for evaluation.

C. If DMAS renews restriction following the review, the provider shall be notified of the agency's proposed action, the basis for the action, and appeal rights. (See § 13.)

D. If the provider continues a pattern of medically unnecessary services, DMAS may make a referral to the appropriate peer review group or regulatory agency for recommendation or action, or both.

## § 13. K. Recipient appeals.

A. 1. Restricted providers and Recipients shall have the right to appeal the application of the utilization control criteria used to determine their restriction any adverse action taken by DMAS under these regulations

B. Provider appeals shall be held pursuant to the provisions of § 9-6-14:11 et seq. of the Code of Virginia (Administrative Process Act).

C. 2. Recipient appeals shall be held pursuant to the provisions of 42 CFR 431.200ff and the State Plan for Medical Assistance VR 460-04-8.7, Client Appeals.

## § 3. Client Medical Management Program for providers.

### A. Purpose.

The Client Medical Management Program is a utilization control program designed to promote improved and cost efficient medical management of essential health care.

### B. Authority.

1. Federal regulations at 42 CFR § 456.3 require the Medicaid agency to implement a statewide surveillance and utilization control program.

2. Federal regulations at 42 CFR § 431.54 (f) allow states to restrict providers' participation in the Medicaid program if the agency finds that the provider of items or services under the State Plan has provided items or services at a frequency or amount not medically necessary in accordance with utilization guidelines established by the state, or has provided items or services of a quality that do not meet professionally recognized standards of health care.

### C. Identification of Client Medical Management Program participants.

DMAS shall identify providers for review through computerized reports such as but not limited to Provider SURS or by referrals from agencies, health care professionals, or other individuals.

### D. Provider evaluation for restriction.

1. DMAS shall review providers to determine if health care services are being provided at a frequency or amount that is not medically necessary or that are not of a quality to meet professionally recognized standards of health care. Evaluation of utilization patterns can include but is not limited to review by the department staff of medical records or computerized reports generated by the department reflecting claims submitted for physician visits, drugs/prescriptions, outpatient and emergency room visits, lab or diagnostic procedures, hospital admissions, and referrals.

2. DMAS may restrict providers if any of the following conditions is identified:

- a. Visits billed at a frequency or level exceeding that which is medically necessary;
- b. Diagnostic tests billed in excess of what is medically necessary;
- c. Diagnostic tests billed which are unrelated to the

# Proposed Regulations

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diagnosis;

d. Medications prescribed or prescriptions dispensed in excess of recommended dosages;

e. Medications prescribed or prescriptions dispensed unrelated to the diagnosis.

f. If the provider's license to practice in any state has been revoked or suspended.

## E. Provider restriction procedures.

1. DMAS shall advise affected providers by written notice of the proposed restriction under the Client Medical Management Program. Written notice shall include an explanation of the basis for the decision, request for additional documentation, if any, and notification of the provider's right to appeal the proposed action.

2. DMAS shall restrict providers from being the designated provider, a referral provider, or a covering provider, for recipients in the Client Medical Management Program for 18 months.

3. DMAS shall not implement provider restriction if a valid appeal is noted.

## F. Review of provider restriction status.

1. DMAS shall review a restricted provider's claims history record prior to the end of the restriction period to determine restriction termination or continuation (See § 3 D). DMAS shall extend provider restriction for 18 months in one or more of the following situations:

- a. Where abuse by the provider is identified.
- b. Where the practices which led to restriction continue.

2. In cases where the provider has submitted an insufficient number of claims during the restriction period to enable DMAS to conduct a claims history review, DMAS shall continue restriction until a reviewable six-months claims history is available for evaluation.

3. If DMAS renews restriction following the review, the provider shall be notified of the agency's proposed action, the basis for the action, and appeal rights. (See § 3 E).

4. If the provider continues a pattern of inappropriate health care services, DMAS may make a referral to the appropriate peer review group or regulatory agency for recommendation or action.

## G. Provider appeals.

1. Providers shall have the right to appeal an adverse action taken by the department under these regulations.

2. Provider appeals shall be held pursuant to the provisions of § 9-6.14:11 et seq. of the Code of Virginia (Administrative Process Act).

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

CLIENT MEDICAL MANAGEMENT PROGRAM

PRACTITIONER REFERRAL FORM

INSTRUCTIONS

Recipient's Name: \_\_\_\_\_ DMAS#: \_\_\_\_\_

Referred to: \_\_\_\_\_ Date: \_\_\_\_\_

Purpose of Referral (check one):

\_\_\_\_ Physician covering in absence of primary health care provider for (specify period of absence for up to 90 days) \_\_\_\_\_

\_\_\_\_ See one time only for \_\_\_\_\_

\_\_\_\_ See as needed for on-going treatment of \_\_\_\_\_

(Referral for on-going treatment must be renewed at 90 day intervals.)

This recipient is restricted to me as his/her primary health care provider. Please refer to the billing chapter in your Medicaid Provider Manual for billing information. This form must be part of your medical record. For reimbursement, a copy must be attached to every claim submitted on behalf of this recipient.

If you wish to refer this patient to another source who will be billing Medicaid, you must obtain another referral form for that physician from me.

These referral provisions do not apply while the recipient is an inpatient in a hospital.

\_\_\_\_\_  
Signature of Primary Health Care Provider

\_\_\_\_\_  
Name of Primary Health Care Provider

\_\_\_\_\_  
Provider ID#: \_\_\_\_\_

\_\_\_\_\_  
Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Telephone #: ( ) \_\_\_\_\_

(Instructions on Back)

Referral Physician's Copy

The primary health care provider whose name and Medicaid identification number appear on the restricted recipient's eligibility card completes the form.

NOTE: If the recipient is restricted to a clinic, the clinic physician serving as the primary physician completes and signs the form. The clinic name and number are listed under the physician's signature.

The Referral Physician's Copy is mailed to the referral physician or given to the recipient to take to the appointment with the referral physician.

The Recipient's Copy is given to the recipient. The recipient should show the copy to the designated pharmacist when filling a prescription from the referral physician.

The Primary Health Care Provider's Copy is retained in the recipient's record in the office of the primary health care provider.

DRUG UTILIZATION REVIEW REPLY

REVIEW PERIOD: \_\_\_\_\_

RECIPIENT: \_\_\_\_\_ D/MAS#: \_\_\_\_\_

- I. Are you aware of the total medication utilization by this patient as indicated on the enclosed drug chart? \_\_\_\_\_ yes \_\_\_\_\_ no
- II. Please list the medications prescribed by you, giving the prescription order and related diagnosis, OR submit copies of your medical records for the review period.

| MEDICATION<br>(including dose and frequency) | and | RELATED DIAGNOSIS |
|--|-----|-------------------|
|--|-----|-------------------|

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

III. Are you aware of this patient being treated by any other physician?  
 yes \_\_\_\_\_ no \_\_\_\_\_  
 If yes, please list: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

IV. In your opinion, does this patient need to be restricted to one primary physician and pharmacy? yes \_\_\_\_\_ no \_\_\_\_\_

V. Additional Comments:

PLEASE RETURN THE FORM TO:

RECIPIENT MONITORING UNIT  
 DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
 600 EAST BROAD STREET  
 SUITE 1300  
 RICHMOND, VIRGINIA 23219

\_\_\_\_\_  
PRESCRIBER'S SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRESCRIBER'S NAME

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

RECIPIENT/PRIMARY PROVIDER AGREEMENT

PHYSICIAN

DATE: \_\_\_\_\_

RECIPIENT NAME: \_\_\_\_\_ D/MAS#: \_\_\_\_\_

- I. My choice for primary physician is given below. I understand that Medicaid will pay for covered outpatient physician services provided by my primary physician. Other physicians will be paid only when my primary physician makes a medical referral or is unable to provide services in a medical emergency requiring immediate treatment.

RECIPIENT SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

TELEPHONE NUMBER: ( ) \_\_\_\_\_

II. PRINT NAME AND ADDRESS OF PHYSICIAN: \_\_\_\_\_  
 \_\_\_\_\_

I agree to undertake primary health care and make appropriate referrals to specialists for the recipient named above.

PHYSICIAN'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PHYSICIAN'S MEDICAID ID#: \_\_\_\_\_ TELEPHONE NUMBER: ( ) \_\_\_\_\_  
 (Use number preprinted on the invoice)

MAIL TO:

RECIPIENT MONITORING UNIT  
 DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
 600 EAST BROAD STREET  
 SUITE 1300  
 RICHMOND, VIRGINIA 23219

INSTRUCTIONS

1. You must sign the form in Section I. If the form is for a child, the parent or guardian must sign.
2. The physician you select must be an enrolled as an individual physician with Medicaid and bill on a Practitioner Invoice using his/her own Medicaid provider number. The physician can tell you if these requirements are met. Any questions can be directed to the Recipient Monitoring Unit in Richmond, (804) 786-6548.
3. If the physician agrees to be your primary physician, ask him/her to sign and date the form and write in the Medicaid provider number.
4. Be sure the physician's name and the office address are PRINTED clearly in Section II.
5. When Sections I and II are completed, return the form to our office in the enclosed postage paid envelope.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

RECIPIENT/PRIMARY PROVIDER AGREEMENT

PHYSICIAN CHANGE

DATE: \_\_\_\_\_

RECIPIENT NAME: \_\_\_\_\_ DMAS#: \_\_\_\_\_

I. My choice for primary physician is given below. I understand that Medicaid will pay for covered outpatient physician services provided by my primary physician. Other physicians will be paid only when my primary physician makes a medical referral or is unable to provide services in a medical emergency requiring immediate treatment.

RECIPIENT SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

TELEPHONE NUMBER: ( ) \_\_\_\_\_

II. PRINT NAME AND ADDRESS OF PHYSICIAN: \_\_\_\_\_

I agree to undertake primary health care and make appropriate referrals to specialists for the recipient named above.

PHYSICIAN'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PHYSICIAN'S MEDICAID ID#: \_\_\_\_\_ TELEPHONE NUMBER: ( ) \_\_\_\_\_  
(Use number preprinted on the invoice)

MAIL TO:

RECIPIENT MONITORING UNIT  
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
600 EAST BROAD STREET  
SUITE 1300  
RICHMOND, VIRGINIA 23219

INSTRUCTIONS

1. You must sign the form in Section I. If the form is for a child, the parent or guardian must sign.
2. The physician you select must be an enrolled as an individual physician with Medicaid and bill on a Practitioner Invoice using his/her own Medicaid provider number. The physician can tell you if these requirements are met. Any questions can be directed to the Recipient Monitoring Unit in Richmond, (804) 786-6548.
3. If the physician agrees to be your primary physician, ask him/her to sign and date the form and write in the Medicaid provider number. The change will be effective on the date the form is signed.
4. Be sure the physician's name and the office address are PRINTED clearly in Section II.
5. When Sections I and II are completed, return the form to our office in the enclosed postage paid envelope.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

RECIPIENT/PRIMARY PROVIDER AGREEMENT

PHARMACY

DATE: \_\_\_\_\_

RECIPIENT NAME: \_\_\_\_\_ DMAS#: \_\_\_\_\_

I. My choice for designated pharmacy is given below. I understand that Medicaid will pay for covered outpatient pharmacy services from my designated pharmacy. Other pharmacies will be paid only when my designated pharmacy does not stock or cannot supply medications in a medical emergency requiring immediate treatment.

RECIPIENT SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

TELEPHONE NUMBER: ( ) \_\_\_\_\_

II. PRINT NAME AND ADDRESS OF PHARMACY: \_\_\_\_\_

I agree to monitor the drug utilization and provide all outpatient pharmaceutical needs for the recipient named above.

PHARMACY REPRESENTATIVE'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PHARMACY'S MEDICAID ID#: \_\_\_\_\_ TELEPHONE NUMBER: ( ) \_\_\_\_\_  
(Use number preprinted on the invoice)

MAIL TO:

RECIPIENT MONITORING UNIT  
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
600 EAST BROAD STREET  
SUITE 1300  
RICHMOND, VIRGINIA 23219

INSTRUCTIONS

1. You must sign the form in Section I. If the form is for a child, the parent or guardian must sign.
2. The pharmacy you select must be a Medicaid provider that bills on the Daily Drug Claim Ledger. The pharmacist can tell you if the pharmacy meets these requirements. Any questions can be directed to the Recipient Monitoring Unit in Richmond, (804) 786-6548.
3. If the pharmacist agrees to be your designated provider, ask him/her to sign and date the form and write in the pharmacy's Medicaid provider number.
4. Be sure the name and address of the pharmacy is PRINTED clearly in Section II.
5. When Sections I and II are completed, return the form to our office in the enclosed postage paid envelope.



DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
RECIPIENT/PRIMARY PROVIDER AGREEMENT

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
RECIPIENT/PRIMARY PROVIDER AGREEMENT  
PHARMACY CHANGE

DATE: \_\_\_\_\_  
RECIPIENT NAME: \_\_\_\_\_ IMASF: \_\_\_\_\_

DATE: \_\_\_\_\_  
RECIPIENT NAME: \_\_\_\_\_ IMASF: \_\_\_\_\_

I. My choices for primary physician and pharmacy are given below. I understand that Medicaid will pay for covered outpatient physician and pharmacy services provided by the providers listed below. Other physicians will be paid only when my primary physician makes a medical referral or is unable to provide services in a medical emergency requiring immediate treatment. Other pharmacies will be paid only when my designated pharmacy does not stock or cannot supply medications in a medical emergency requiring immediate treatment.

I. My choice for designated pharmacy is given below. I understand that Medicaid will pay for covered outpatient pharmacy services from my designated pharmacy. Other pharmacies will be paid only when my designated pharmacy does not stock or cannot supply medications in a medical emergency requiring immediate treatment.

RECIPIENT SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
TELEPHONE NUMBER: ( ) \_\_\_\_\_

RECIPIENT SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
TELEPHONE NUMBER: ( ) \_\_\_\_\_

II. PRINT NAME AND ADDRESS OF PHARMACY: \_\_\_\_\_  
\_\_\_\_\_

II. PRINT NAME AND ADDRESS OF PRIMARY PHYSICIAN: \_\_\_\_\_  
\_\_\_\_\_

I agree to monitor the drug utilization and provide all outpatient pharmaceutical needs for the recipient named above.

I agree to undertake primary health care and make appropriate referrals to specialists for the recipient named above.

PHARMACY REPRESENTATIVE'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PHYSICIAN'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PHARMACY'S MEDICAID ID#: \_\_\_\_\_ TELEPHONE NUMBER: ( ) \_\_\_\_\_  
(Use number preprinted on the invoice)

PHYSICIAN'S MEDICAID ID#: \_\_\_\_\_ TELEPHONE NUMBER: ( ) \_\_\_\_\_  
(Use number preprinted on the invoice)

MAIL TO:

RECIPIENT MONITORING UNIT  
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
600 EAST BROAD STREET  
SUITE 1300  
RICHMOND, VIRGINIA 23219

III. PRINT NAME AND ADDRESS OF PHARMACY: \_\_\_\_\_  
\_\_\_\_\_

I agree to monitor the drug utilization and provide all outpatient pharmaceutical needs for the recipient named above.

PHARMACY REPRESENTATIVE'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

- INSTRUCTIONS**
1. You must sign the form in Section I. If the form is for a child, the parent or guardian must sign.
  2. The pharmacy you select must be a Medicaid provider that bills on the Daily Drug Claim Ledger. The pharmacist can tell you if the pharmacy meets these requirements. Any questions can be directed to the Recipient Monitoring Unit in Richmond, (804) 786-6548.
  3. If the pharmacist agrees to be your designated provider, ask him/her to sign and date the form and write in the pharmacy's Medicaid provider number. The change will be effective on the date the form is signed.
  4. Be sure the name and address of the pharmacy is PRINTED clearly in Section II.
  5. When Sections I and II are completed, return the form to our office in the enclosed postage paid envelope.

PHARMACY'S MEDICAID ID#: \_\_\_\_\_ TELEPHONE NUMBER: ( ) \_\_\_\_\_  
(Use number preprinted on the invoice)

MAIL TO:

RECIPIENT MONITORING UNIT  
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
600 EAST BROAD STREET  
SUITE 1300  
RICHMOND, VIRGINIA 23219

INSTRUCTIONS ON REVERSE SIDE

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
RECIPIENT/PRIMARY PROVIDER AGREEMENT

INSTRUCTIONS

1. You must sign the form in Section I. If the form is for a child, the parent or guardian must sign.
2. The physician you select must be enrolled as an individual physician with Medicaid and bill on a Practitioner Invoice using his/her own Medicaid provider number. The pharmacy you select must be a Medicaid provider that bills on the Daily Drug Claim Ledger. The physician and pharmacist can tell you if these requirements are met. Any questions can be directed to the Recipient Monitoring Unit in Richmond, (804) 786-6548.
3. If they agree to be your primary care providers, ask them to sign and date the form and write in their Medicaid provider numbers in the appropriate Sections (II and III).
4. Be sure their names and addresses are PRINTED clearly in the appropriate section.
5. When Sections I, II, and III are complete, return the form to our office in the enclosed postage paid envelope.

PLEASE RETURN THE FORM TO:

RECIPIENT MONITORING UNIT  
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
600 EAST BROAD STREET  
SUITE 1300  
RICHMOND, VIRGINIA 23219

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
RECIPIENT/PRIMARY PROVIDER AGREEMENT  
PROVIDER CHANGES

DATE: \_\_\_\_\_

RECIPIENT NAME: \_\_\_\_\_ IMAS#: \_\_\_\_\_

I. My choices for primary physician and pharmacy are given below. I understand that Medicaid will pay for covered outpatient physician and pharmacy services provided by the providers listed below. Other physicians will be paid only when my primary physician makes a medical referral or is unable to provide services in a medical emergency requiring immediate treatment. Other pharmacies will be paid only when my designated pharmacy does not stock or cannot supply medications in a medical emergency requiring immediate treatment.

RECIPIENT SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

TELEPHONE NUMBER: ( ) \_\_\_\_\_

II. PRINT NAME AND ADDRESS OF PRIMARY PHYSICIAN: \_\_\_\_\_

I agree to undertake primary health care and make appropriate referrals to specialists for the recipient named above.

PHYSICIAN'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PHYSICIAN'S MEDICAID ID#: \_\_\_\_\_ TELEPHONE NUMBER: ( ) \_\_\_\_\_  
(Use number preprinted on the invoice)

III. PRINT NAME AND ADDRESS OF PHARMACY: \_\_\_\_\_

I agree to monitor the drug utilization and provide all outpatient pharmaceutical needs for the recipient named above.

PHARMACY REPRESENTATIVE'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PHARMACY'S MEDICAID ID#: \_\_\_\_\_ TELEPHONE NUMBER: ( ) \_\_\_\_\_  
(Use number preprinted on the invoice)

MAIL TO:

RECIPIENT MONITORING UNIT  
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
600 EAST BROAD STREET  
SUITE 1300  
RICHMOND, VIRGINIA 23219

INSTRUCTIONS ON REVERSE SIDE

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

## RECIPIENT/PRIMARY PROVIDER AGREEMENT

## PROVIDER CHANGES

## INSTRUCTIONS

1. You must sign the form in Section I. If the form is for a child, the parent or guardian must sign.
2. The physician you select must be enrolled as an individual physician with Medicaid and bill on a Practitioner Invoice using his/her own Medicaid provider number. The pharmacy you select must be a Medicaid provider that bills on the Daily Drug Claim Ledger. The physician and pharmacist can tell you if these requirements are met. Any questions can be directed to the Recipient Monitoring Unit in Richmond, (804) 786-6548.
3. If they agree to be your primary care providers, ask them to sign and date the form and write in their Medicaid provider numbers in the appropriate Sections (II and III). The changes will be effective on the date(s) the form was signed.
4. Be sure their names and addresses are PRINTED clearly in the appropriate section.
5. When Sections I, II, and III are complete, return the form to our office in the enclosed postage paid envelope.

PLEASE RETURN THE FORM TO:

RECIPIENT MONITORING UNIT  
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
600 EAST BROAD STREET  
SUITE 1300  
RICHMOND, VIRGINIA 23219

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

## QUESTIONNAIRE

NAME: \_\_\_\_\_ DMS#: \_\_\_\_\_

TELEPHONE # WHERE RECIPIENT CAN BE REACHED: ( ) \_\_\_\_\_

1. What does the recipient indicate are specific medical problems?
2. What drugs is the recipient currently taking, and why?
3. Explain why the recipient is using more than one physician.
4. Explain why the recipient is using more than one pharmacy.
5. Explain why the recipient is using the emergency room.

(SEE REVERSE SIDE)

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
PROFILE OF RECIPIENT'S UTILIZATION

**DRAFT**

- 6. Does the recipient appear to understand the Client Medical Management Program?
- 7. Which pharmacy and physician does the recipient plan to designate? (The primary physician is usually a General Practitioner or Internist who provides routine medical care and refers to specialists as needed. Instruct the recipient to return the Recipient/Primary Provider Agreement with the required signatures).
- 8. What is your general impression of the home situation?
- 9. Is there someone in or outside the home who assists the recipient with daily living skills?
- 10. Can the recipient read and write?
- 11. Is this an active service case?
- 12. Please list names and Medicaid numbers for other recipients residing at the same address.

\_\_\_\_\_  
Interviewer's Name

( )  
\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Agency

\_\_\_\_\_  
Date

Please return form to:

RECIPIENT MONITORING UNIT  
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
600 EAST BROAD STREET  
SUITE 1300  
RICHMOND, VIRGINIA 23219

4/89

RECIPIENT NAME: \_\_\_\_\_ DMAS#: \_\_\_\_\_

During the review period of \_\_\_\_\_, we found that the recipient:

(SEE ITEMS THAT ARE CHECKED)

- \_\_\_\_ 1. Used \_\_\_\_\_ physicians/groups of physicians.
  - \_\_\_\_ Used \_\_\_\_\_ physicians/physician groups for routine care.
  - \_\_\_\_ Used more than one physician of the same provider type: \_\_\_\_\_
- \_\_\_\_ 2. Used \_\_\_\_\_ pharmacies.
  - \_\_\_\_ Used multiple pharmacies consistently.
  - \_\_\_\_ Used one pharmacy primarily ( \_\_\_\_\_ ) and other pharmacies occasionally.
- \_\_\_\_ 3. Received services of the same type from two or more physicians and/or pharmacies.
  - \_\_\_\_ Treatment by \_\_\_\_\_ physicians for same diagnosis.
  - \_\_\_\_ Duplicative medical visits, lab/diagnostic procedures.
  - \_\_\_\_ Used more than one pharmacy or more than one prescriber to receive drugs duplicative in nature or potentially addictive.
- \_\_\_\_ 4. Excessively used medications.
  - \_\_\_\_ Received large quantities of specific drugs from one or more prescribers. Drug Classifications: \_\_\_\_\_
  - \_\_\_\_ Different prescribers writing for same types of drugs are unaware of total drug utilization. Drug classifications: \_\_\_\_\_
  - \_\_\_\_ Obtained prescriptions at a frequency or amount that does not comply with prescribers's directions. (ex: refilling prescriptions early). Drug classifications: \_\_\_\_\_
  - \_\_\_\_ Physician reports that strict controls for prescribing medications are necessary due to recipient requesting specific medications.

(SEE REVERSE SIDE)

**DRAFT**

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DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

PRIMARY HEALTH CARE PROVIDER'S REVIEW FORM

REVIEW PERIOD: \_\_\_\_\_

RECIPIENT: \_\_\_\_\_ DMS# \_\_\_\_\_

I. Please list the maintenance drugs and any controlled substances, giving the prescription order and related diagnosis, OR submit copies of your medical records for the review period.

| MEDICATION<br>(including prescription order) | and | RELATED DIAGNOSIS |
|--|-----|-------------------|
| 1. _____                                     |     | _____             |
| 2. _____                                     |     | _____             |
| 3. _____                                     |     | _____             |
| 4. _____                                     |     | _____             |
| 5. _____                                     |     | _____             |
| 6. _____                                     |     | _____             |
| 7. _____                                     |     | _____             |
| 8. _____                                     |     | _____             |

II. If a drug chart giving weekly quantities for each medication covered by the Department is enclosed for your review, are you aware of the total drug utilization? \_\_\_\_\_ yes \_\_\_\_\_ no

Have you had to implement strict controls of medications due to drug seeking behaviors during the last 10 months? (ex: requesting early refills)  
\_\_\_\_\_ yes \_\_\_\_\_ no

Has the recipient demonstrated non-compliance in taking maintenance drugs during the last 10 months? (ex: asthmatic patient not using prescribed bronchial dilators)  
\_\_\_\_\_ yes \_\_\_\_\_ no

Comments: \_\_\_\_\_

\_\_\_\_\_  
\*\*PLEASE EXPLAIN TO THE RECIPIENT why using multiple physicians and pharmacies is not in the recipient's best interest. Mixing prescriptions from a number of prescribers can be detrimental to the recipient's health and serves no therapeutic purpose. Using one primary physician allows the physician to follow the recipient's medical progress and provides continuity of care. Using one pharmacy allows the pharmacist to monitor the recipient's drug regimen and work with the physician if complications should develop.

\_\_\_\_\_  
5. Made \_\_\_\_\_ visits to \_\_\_\_\_ hospital(s). Based on Medicaid criteria for treatment in the emergency room, \_\_\_\_\_ visits were considered non-emergency.

\_\_\_\_\_  
\*\*PLEASE EXPLAIN TO THE RECIPIENT that a hospital emergency room is to be used only when the threat to the life or health of the recipient necessitates the use of the most accessible hospital facility available that is equipped to furnish the services. Once restricted to a primary physician, reimbursement for emergency room services is conditional upon the review of the necessary documentation supporting the need for emergency services. If Medicaid determines that the recipient used the emergency room for treatment which could have been provided in a physician's office, Medicaid will not pay for the visits and the hospital can bill the recipient.

The recipient is expected to make an appointment with the primary physician for routine, non-emergency care. If the primary physician is not available, the recipient is expected to see the physician who is covering, usually an associate sharing the office.

\_\_\_\_\_  
6. Use of pre-authorized transportation services on dates for which no corresponding medical services can be verified.

\_\_\_\_\_  
\*\*PLEASE EXPLAIN TO THE RECIPIENT that Medicaid transportation can be used only for services covered by Medicaid.

\_\_\_\_\_  
ADDITIONAL COMMENTS:

\_\_\_\_\_  
If you have any questions regarding this information, please call \_\_\_\_\_, Recipient Monitoring Unit, Department of Medical Assistance Services, at (804) 786-6548.

III. Have you referred this patient to any other physician(s)? (NOTE: other physicians treating this recipient for non-emergency medical problems will only be paid with a referral from the primary health care provider.)  
\_\_\_\_\_ yes \_\_\_\_\_ no

If yes, please list physician(s) name, date(s) of referral and related diagnosis.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has the recipient requested unnecessary medical services (referrals or procedures) during the last 12 months? \_\_\_\_\_ YES \_\_\_\_\_ NO

IV. A Medicaid recipient's use of an emergency room for routine medical care is considered abuse of the Department of Medical Assistance Services. We have requested copies of this recipient's visits on \_\_\_\_\_ to determine the basis for the utilization.

Are you aware of these visits? \_\_\_\_\_ yes \_\_\_\_\_ no

If you referred the recipient to the Emergency Room, please specify dates:

\_\_\_\_\_  
\_\_\_\_\_

V. Do you recommend renewing this recipient's restriction status? \_\_\_\_\_ yes \_\_\_\_\_ no

Comments:

PLEASE RETURN TO:

Recipient Monitoring Unit  
Department of Medical Assistance Services  
600 East Broad Street  
Suite 1300  
Richmond, Virginia 23219

\_\_\_\_\_  
PHYSICIAN'S SIGNATURE

\_\_\_\_\_  
PHYSICIAN'S NAME

\_\_\_\_\_  
DATE

# Proposed Regulations

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF) AND CHILD DAY-CARE COUNCIL

**Title of Regulation:** VR 615-30-01, VR 175-03-01. General Procedures and Information for Licensure.

**Statutory Authority:** §§ 63.1-174 and 63.1-202 of the Code of Virginia.

### Public Hearing Dates:

September 16, 1991 - 3:30 p.m.

September 17, 1991 - 3:00 p.m.

September 19, 1991 - 3:00 p.m.

(See Calendar of Events section for additional information)

### Summary:

This regulation contains the requirements and procedures that licensees and staff of the Department of Social Services must follow during the licensing process. The licensed facilities affected by this regulation are as follows: (i) adult day care centers; (ii) homes for adults; (iii) child placing agencies; (iv) child caring institutions; (v) independent foster homes; (vi) child day care homes; (vii) family day care homes; and (viii) family day care systems.

The following areas are addressed in the regulation: (i) licensing standards; (ii) the license; (iii) the licensing process; (iv) allowable variance; (v) informal appeal process; (vi) complaint investigation; and (vii) sanctions.

VR 615-30-01, VR 175-03-01. General Procedures and Information for Licensure.

## 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:

"Allegation" means an accusation that a facility which is subject to licensure is operating without a license.

"Allowable variance" means (i) permission to meet the intent of a standard by some means other than as specified by the standard, or (ii) the suspension of enforcement of a particular standard or portion of the standard for a stated time period.

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

"Board" means the State Board of Social Services.

"Commissioner" means the Commissioner of the Department of Social Services.

"Complaint" means an accusation that a licensed facility is not in compliance with licensing standards or law.

"Conditional license" means a license which may be issued to a new facility to operate in order to permit the applicant to demonstrate compliance with specified standards.

"Council" means the Child Day-Care Council.

"Denial" means the act of refusing to grant a license after receipt of an original or renewal application.

"Department" means the Department of Social Services.

"Early compliance" means replacement of a provisional or conditional license with a regular license.

"Functional design" means the design features of building and grounds not regulated by the Building Code, necessary for particular activities and operations of a facility subject to licensure by the Department of Social Services.

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

"Provisional license" means a license which may be issued upon expiration of a regular license when the licensee is temporarily unable to comply with all the requirements of the standards.

"Regular license" means a license which is issued for 12 months or more as provided in Chapters 9 and 10 of Title 63.1 of the Code of Virginia to a facility determined to be in substantial compliance with applicable standards and regulations. The actual duration of the licensure period is stated on the license.

## PART I. PART II. LICENSING STANDARDS.

§ 1.1. § 2.1 Through the administration of the licensing program, the Department of Social Services assumes responsibility to ensure that licensed facilities and agencies provide children and adults with at least a minimum level of care in accordance with standards prescribed by the State Board of Social Services and Child Day-Care Council. The department also has the responsibility to investigate accusations that a facility/agency subject to licensure is operating without a license. The Virginia Code requires the State Board of Social Services to adopt standards and regulations for the licensure of the following categories of facilities/agencies:

1. Adult day care centers
2. Homes for adults
3. Child placing agencies
4. Child caring institutions
5. Independent foster homes
6. Group family day care homes
7. Family day care systems.

The Virginia Code requires the Child Day-Care Council to adopt standards and regulations for the licensure of child care centers, including those centers operating as child day-care camps, preschools and nursery schools, and before and after school day-care programs.

~~§ 1-2.~~ § 2.2. The State Board of Social Services or the Child Day-Care Council has adopted a set of standards for each category listed above except for child care centers for which the Child Day-Care Council has adopted the standards. The definition of each category and requirements for licensure are contained in each set of standards.

~~§ 1-3.~~ § 2.3. Standards development/revision process.

A. In developing or revising standards for licensed facilities/agencies, the Department of Social Services, acting as agent for the State Board of Social Services and Child Day-Care Council, adheres to the requirements of the Administrative Process Act (§ 9-6.14:1 of the Code of Virginia) and the public participation process.

B. The department solicits input from licensees, associations of licensees, experts in related fields, and advocacy organizations, consumers and the general public in the development or revision of licensing standards through informal and formal comment periods and public hearings.

C. The department is committed to conducting periodic reviews and, when necessary, comprehensive revisions of each set of standards to assure that its standards continue to protect vulnerable children and adults in out-of-home care while considering the interests of both providers and consumers of care.

## PART H. PART III. THE LICENSE.

~~§ 2-1.~~ § 3.1. A license to operate a facility or agency is issued to a specific person or organization to provide out-of-home care to children or adults. An organization may be a partnership, association, or corporation, or public entity.

~~§ 2-2.~~ § 3.2. A license is not transferable when there is a

change in the ownership or location of the facility/agency to which the license has been issued.

EXCEPTION: Licenses issued for child placing agencies and family day care systems are transferable when agencies change location.

~~§ 2-3.~~ § 3.3. The department may issue a conditional license to a new facility/agency in order to permit the applicant to demonstrate compliance with specified standards. A conditional license may be effective for any period not to exceed six consecutive months. When this period expires, the facility/agency must substantially meet the standards or be denied a license. Conditional licenses may be used only for new facilities/agencies.

EXCEPTION: With the approval of the appropriate fire marshal, a second conditional license may be issued to a licensee to permit the licensee additional time to comply with fire safety standards when the licensee has purchased an existing licensed facility for adults.

§ 2.4. An annual license is issued when the activities, services, facilities, and the applicant's financial responsibility substantially meet the requirements for a license that are set forth by standards adopted by the State Board of Social Services or the Child Day-Care Council and any additional requirements that may be specified by the Virginia Code. The annual license is effective for 12 months unless it is revoked or surrendered prior to the expiration date.

§ 3.4. A regular license is issued for 12 months or more as provided in Chapters 9 and 10 of Title 63.1 of the Code of Virginia to a facility determined to be in substantial compliance with applicable standards and regulations. The actual duration of the licensure period is stated on the license.

~~§ 2-5.~~ § 3.5. When an annual a regular license expires and the applicant is temporarily unable to comply with the requirements of the standards, the department may issue a provisional license for any period not to exceed six months. A provisional license shall not be issued to a facility/agency which holds a conditional license. When a period of six consecutive months of a provisional license expires, the facility/agency must substantially meet the standards and requirements or be denied a license.

EXCEPTION: With the approval of the appropriate fire marshal, a second provisional license may be issued to a facility for adults to permit the licensee additional time to comply with fire safety standards.

~~§ 2-6.~~ § 3.6. Terms of the license.

A. A facility/agency shall operate within the terms of its license.

B. The terms of any license include:



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1. The operating name of the facility/agency;
  2. The name of the individual, partnership, association, or corporation, or public entity sponsoring the facility/agency;
  3. The physical location of the facility/agency;
  4. The maximum number of children/adults who may be in care at any time;
  5. The period of time for which the license is effective; and
  6. For child care facilities/agencies, the age range of children for whom care may be provided.
- C. The terms of a license may include other limitations which the department may prescribe within the context of the standards for any facility/agency.
- D. The provisional license cites the standards with which the licensee is not in compliance.
- E. The conditional license cites the standards with which the licensee must demonstrate compliance when operation begins, and also any standards with which the licensee is not in compliance.
- F. Prior to changes in operation which would affect the terms of the license, the licensee shall secure a modification to the terms of the license from the department. (See § 3-8 § 4.8 )

## PART III: PART IV. THE LICENSING PROCESS.

### § 3-1: § 4.1. Preapplication consultation.

Upon request, the department's licensing representative will provide consultation to any person(s) seeking information about obtaining a license. The purpose of such consultation is:

1. To explain standards and the licensing process;
2. To help the potential applicant explore the operational demands of a licensed facility/agency;
3. To provide assistance in locating other sources of information;
4. To alert the potential applicant to the value of assessing the need for a facility/agency in the area to be served;
5. To review the potential applicant's proposed program plans, forms, etc., as they relate to standards; and
6. To alert the potential applicant regarding the need

to meet other state and local ordinances, such as health, fire and building codes, where applicable.

### § 3-2: § 4.2. The initial application.

A. Upon request, the Virginia Department of Social Services will provide an application form for a license to operate a facility/agency. The location, telephone number and areas served by each office, central and regional, are provided in Attachment I of this document.

B. The department shall consider an application complete when the application fee and all the required information is submitted in the form required by the department. The schedule of fees for licenses is provided in Attachment II of this document. If the department finds the application incomplete, the applicant will be notified within 15 days of receipt of the incomplete application.

C. The applicant shall complete and submit the application to the department at least 60 days prior to a planned opening date to allow the department time to act on the application.

D. The applicant may at any time withdraw a request for a license.

### § 3-2: § 4.3. Applications or prospective applications for the issuance of a new or changed Use Group certificate of occupancy. Approval of functional design features.

A valid certificate of occupancy is one prerequisite for licensure. When an application is for licensure of a building which has not previously been used for the type of license or Use Group being sought, or when renovations are made in the building, the department must approve functional design features of the building in accordance with applicable department regulations. Functional design refers to design functions of building and grounds not regulated by the Building Code, necessary for particular activities and operations of a facility subject to licensure by the Department of Social Services. The procedures are as follows:

1. Prior to beginning construction or renovation, the applicant or prospective operator applicant shall submit to the department floor plans drawn to scale which clearly indicate the use of space and other plans for compliance with all requirements for the building, use of space, and bathroom facilities contained in the applicable regulations.

(NOTE: Prospective operators applicants are urged to present their plans for compliance with departmental regulations to the department as early as possible and before entering into contracts in order to assure that the building can be preapproved as meeting the department's regulations. Architects, contractors, or building officials may not be thoroughly familiar with these additional requirements, and costly errors can be avoided through early review by the department)

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The plan for structures must a drawing to scale but does not need to be an architectural drawing clearly indicate the use of space.)

2. The department will notify the applicant or prospective operator applicant within five 10 working days of receipt if the plans to comply are incomplete, identifying the information still needed before the request can be considered complete.

3. When a complete plan is received, the department will issue a Preliminary Approval Statement or a letter indicating disapproval of the plan and the reasons for disapproval.

a. The department's time frame for day care facilities is 20 working days from receipt of a complete plan.

b. The department's time frame for residential facilities is 20 working days from receipt of a complete plan.

(NOTE: A Preliminary Approval Statement does not imply that the department will approve the application for licensure since other factors will affect issuance decisions.)

4. All Preliminary Approval Statements are conditional upon there being no change in the proposal or the circumstances affecting them and upon approval of all required fire, health, or building officials.

5. The department will forward a copy of the Preliminary Approval Statement to the appropriate building official.

6. After construction or renovation, Department of Social Services staff will make an on-site inspection to evaluate compliance with the functional design requirements of the applicable regulations. Findings of this on-site inspection will be forwarded to the applicant and the local building official.

## § 3-4. § 4.4. The investigation.

A. Inspections and reports of other agencies/departments.

EXCEPTION: Section 3-4 4.4 A does not apply to child placing agencies or family day care systems.

1. When the initial application is received, and at least annually thereafter, the department will, as applicable, request the local health department to provide an inspection and report of the environmental health conditions of the facility. This will include a request for approval of the water supply, sewage disposal system and food service operation which serves the facility.

2. When the initial application is received, and at least annually thereafter, the department will, as applicable, request an inspection and report of the fire safety conditions of the facility from the local fire official or state fire official.

3. When applicable, a copy of or a Certificate of Occupancy is required as indication of the approval of the local building official.

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

2. At the time of the initial application and at least annually thereafter, the building(s) shall be inspected by state fire officials or local fire authorities, as applicable, whose inspection shall determine compliance with the Virginia Statewide Fire Prevention Code.

The initial application packet and subsequent renewal packets will include the Fire Inspection Report Form and instructions.

3. At the time of the initial application and at least annually thereafter, the building shall be inspected by state or local health authorities whose inspection and approval shall include general sanitation, water supply sewage disposal systems, food service operations, and swimming pools.

The initial application packet and subsequent renewal packets will include the Report of Environmental Health Inspection form and instructions.

B. The department's representative shall make an on-site inspection of the proposed facility/agency and an investigation of the proposed services, as well as an investigation of the character, reputation and financial responsibility of the applicant. Compliance with all standards will be determined by the Department of Social Services.

The licensee is responsible for correcting any areas of noncompliance found during any on-site inspection.

C. The department's representative may inspect applicant/licensee shall make available to the department's representative the facility's/agency's books and records; and interview its the facility's/agency's agents, employees, residents/participants, and any person under its custody, control, direction, or supervision.

D. After the on-site inspection the licensing representative shall discuss the findings of the investigation with the administrator/licensee. As applicable, the applicant shall submit an acceptable plan for correcting any areas of noncompliance following these discussions.

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E. During the inspection or afterwards At any time during the investigation, an applicant/licensee may request an allowable variance to any standard which creates a special hardship. (See Part IV V. Allowable Variance.)

~~§ 3.5.~~ § 4.5. Notice to the applicant of issuance or denial of a license.

A. When the investigation is completed, the department shall notify the applicant in writing of its decision regarding the issuance of a *conditional or provisional* license.

B. When the decision is to issue a *conditional or provisional* license, a letter accompanying the license shall cite any areas of noncompliance with standards or areas where compliance cannot be determined, as well as any limitations on the license. The letter may also contain recommendations which are optional and offered for the licensee's consideration.

C. When the department intends to deny the license, the department shall send a letter stating the reasons for this action and the applicant's right to an administrative hearing. (See Part VII VIII.)

~~§ 3.6.~~ § 4.6. Determination of continued compliance (renewal and monitoring visits).

In order to determine continued compliance with standards during the effective dates of the license, the department's licensing representative shall make announced and unannounced visits to the facility/agency during the hours of its operation. State law requires at least one unannounced visit per year (See subsection B of § 63.1-210 of the Code of Virginia). The department's representative may also make such visits to any homes/facilities that are approved by the licensee for the placement or care of children as one of the licensed services of the agency. The licensee is responsible for correcting any areas of noncompliance found during renewal or monitoring visits.

A. All licensed child care facilities are inspected not less than twice annually. At least one unannounced inspection of each licensed facility shall be made each year.

B. At least two inspections of each licensed adult care facility shall be made each year and in every instance the annual renewal inspection made by the commissioner or his authorized agents shall be unannounced. The commissioner may authorize such other announced or unannounced inspections as he considers appropriate.

C. The department's representative may also make such visits to any homes/facilities that are approved by the licensee for the placement or care of children as one of the licensed services of the agency.

NOTE: When necessary to respond to excessive

workloads or to give priority to higher risk situations, the department may use its discretion to increase or decrease the frequency of announced and unannounced visits made to licensed facilities during the year.

~~§ 3.7.~~ § 4.7. Problem-solving conferences.

Licensing staff may initiate a request for problem-solving conferences with applicants or licensees when the need arises.

~~§ 3.8.~~ § 4.8. Modification.

A. The licensee may request a modification of the terms of a license at any time during the period of the license. The request must be submitted in writing to the department's representative.

The department will evaluate written information about any planned changes in operation which would affect either the terms of the license or the continuing eligibility for a license. A licensing representative may visit the facility during the process of evaluating a proposed modification.

Examples of such changes are: changes in the number of children/adults to be served, staff responsibilities, availability and use of the physical plant, and changes in program focus or needs of the population to be served.

B. If a modification can be granted under the standard the department shall respond with a transmittal letter and in writing with the modified license. In the event that a new application is needed, the licensee shall receive written notification of such. When the modification cannot be granted, the licensee shall also be advised by letter.

~~§ 3.9.~~ § 4.9. Early compliance (replacement of a provisional or conditional license with an annual license).

A. A provisional or conditional license may be voided and an annual a regular license issued when all of the following conditions exist:

1. The facility/agency complies with all standards listed on the face of the provisional or conditional license well in advance of the expiration date of the provisional or conditional license, and the facility/agency is in substantial compliance with all other standards.

2. Compliance has been verified by an on-site observation by the department's licensing representative or, when applicable, by written evidence provided by the licensee.

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

B. The licensee shall make a written request to the licensing representative for replacement of a provisional or conditional license with an annual a regular license.

C. When the request is approved by the department, the effective date of the new annual license shall be the same as the beginning date of the voided license.

When the request is not approved, the reasons for this action shall be confirmed to the licensee in writing.

D. Early compliance shall not be considered once a renewal application has been filed by the facility/agency.

~~§ 3.10.~~ § 4.10. Renewal process.

A. The Department of Social Services shall send an application for renewal of the license to the licensee 120 days prior to the expiration date of the current license.

B. The licensee shall submit the completed application form along with any required attachments and the application fee 60 days prior to the expiration of the current license. It is the applicant's responsibility to complete and return the application 60 days prior to the expiration of the current license to assure timely processing. Should a current license expire before a new license is issued, the current license shall remain in effect provided that the completed application was filed within the aforementioned 60 days and a decision for licensure is pending.

C. The department shall follow the procedure for investigation and notice to the applicant previously outlined ) §§ 3.4 and 3.5 4.4, 4.5, and 4.6 .

## PART IV. PART V. ALLOWABLE VARIANCE.

§ 4.1. An allowable variance may be: (i) permission to meet the intent of a standard by some means other than as specified by the standard; (ii) the suspension of enforcement of a particular standard or portion of the standard for a stated time period.

§ 4.2. § 5.1. Allowable variances are used for one or more of the following:

1. To allow the department some degree of flexibility in the enforcement of requirements, given the rapid and ever changing nature of programs and their unique settings;
2. To allow for greater development of innovative and pilot programs, which were not anticipated in the regulations; and
3. To promote equity across all programs by allowing for variable compliance methods when a regulation places special hardship on a particular facility.

~~§ 4.3.~~ § 5.2 Conditions for initiating a request.

A licensee/applicant may request an allowable variance when he believes that the existing regulations pose a

special hardship and when he believes that either an alternative method of compliance with the intent of the regulation which is causing the hardship, or the actual suspension of all or part of that regulation, would neither endanger the safety or well-being of persons in care nor create a violation of statutes or of the requirements of another regulatory agency.

§ 4.4. § 5.3. Process.

A. Consideration of an allowable variance is initiated when a written request to the issuing office is received from the applicant/licensee. The department's licensing representative may provide consultation to the applicant/licensee in the development of the written request and throughout the allowable variance process.

1. The licensee/applicant shall make a written request for an allowable variance which describes the special hardship(s) to the existing program or to a planned innovative/pilot program caused by the enforcement of the requirement(s).

2. When possible, the licensee/applicant shall propose alternatives to meet the purpose of the requirement which will ensure the protection and well-being of persons in care.

3. The licensee/applicant should obtain, when requested by the department, the opinions of professionals in the field or documented research, or both, that the proposed activities, facilities, or equipment are not injurious to persons in care.

4. The department can authorize allowable variances only to its own licensing standards, not to regulations of another agency or to any requirement in federal, state, or local laws.

B. The department's representative shall notify the petitioning applicant/licensee of the receipt of his request for an allowable variance and send a recommendation to the person delegated decision-making authority by the department.

C. Decision authority for approval or denial of a request for an allowable variance shall be defined by the commissioner through a formal delegation of authority for licensing actions. The decision is transmitted in writing to the petitioning applicant/licensee with a copy to the department's licensing representative.

D. C. Approval.

1. The designated authority may attach conditions to the granting of the allowable variance in order to protect persons in care.

2. Allowable variances are conditional upon there being no change in the circumstances which were the basis for the approval. Any allowable variance may be

# Proposed Regulations

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rescinded or modified if conditions change; additional information becomes known which alters the basis for the original decision; the applicant/licensee fails to meet any conditions attached to the allowable variance; or results of the allowable variance jeopardize the safety, comfort, or well-being of persons in care.

3. Allowable variances expire automatically when there is a change in the facility's location or a change in the sponsorship of the facility/agency.

EXCEPTION: Allowable variances issued to child placing agencies and family day care systems are transferable when agencies change location.

4. The department's licensing representative shall review each allowable variance at least annually. At minimum, this review shall address the impact if the allowable variance on persons in care, adherence to any conditions attached, and the continuing need for the allowable variance.

## E. D. Denial.

1. When the decision is to deny a request for an allowable variance, the reason(s) shall be provided in writing to the applicant/licensee.

2. When a request for an allowable variance is denied, it may be reconsidered if the applicant/licensee submits another written request and provides new or additional supporting information.

3. When a request for an allowable variance is denied by the designated decision-maker and if the petitioner believes that decision was unreasonable, arbitrary, or capricious, the petitioner may request a desk review of that decision. The following shall apply when a desk review is requested:

a. The petitioner shall request this desk review, in writing, within 15 days of the denial's issuance of the denial and shall include such information as necessary to explain the belief that the decision was unreasonable, arbitrary or capricious.

b. The desk review shall be conducted by the person who supervises the designated decision-maker, unless a different person has been assigned desk review responsibility in accordance with the commissioner's formal delegation of authority.

c. The decision of the reviewer shall be reported in writing to the petitioner within 30 days of receiving a complete request for a desk review.

d. The reviewer's decision shall be final and not appealable.

F. E. When an allowable variance is denied, expires, or is rescinded, routine enforcement of the standard or portion of the standard shall be resumed.

G. F. The applicant/licensee may at any time withdraw a request for an allowable variance.

## PART V. PART VI. INFORMAL APPEAL PROCESS.

~~§ 5.1.~~ § 6.1. When an applicant/licensee has concerns about licensing procedures, interpretation of standards, or the actions of licensing personnel that cannot be resolved satisfactorily in discussion with the assigned licensing representative, the informal appeal steps outlined in Part V below are available.

~~§ 5.2.~~ § 6.2. The applicant/licensee may request either a desk review by, or a meeting with, the assigned licensing representative's immediate supervisor.

A. If the request stems from a desire to contest the findings or conclusions of an inspection, the following procedures shall apply:

1. The applicant/licensee shall make the request within 15 days of receiving the compliance plan.

2. The request shall specify the contested finding or conclusion and shall specify whether a desk review or conference is being requested.

3. The request shall include the applicant's/licensee's reasons or other evidence supporting the request for a review or a conference.

B. The first step informal desk review or conference will be held at the supervisor's office unless the supervisor designates a different location. The following procedures shall apply:

1. The supervisor shall report the findings of a desk review in writing within 10 days of receiving the request and supporting materials or shall hold the requested conference within 30 days of receipt of such request and materials.

2. When the request was is for a conference, the supervisor shall, within 10 days following the conference, confirm to the applicant/licensee in writing the results of the conference and any subsequent decisions made by the supervisor.

~~§ 5.3.~~ § 6.3. If after the first step review, the applicant/licensee believes that the laws, regulations, or departmental policies have been applied or interpreted in a manner that was unreasonable, arbitrary or capricious, he may request a second step review by program supervisory personnel as assigned by the Director of Licensing Programs according to the provisions of this article.

A. A second step informal review shall not be requested to challenge the content of an established law, regulation, or policy. However, the application of a law, regulation, or policy may be challenged.

B. When second step informal appeals are made, the request must be in writing and must specify whether the applicant/licensee is requesting a desk review or a conference. Conferences shall be held in the region, appropriate district office, or in Richmond as designated by the director; the designated location shall be as close to the operation as possible.

C. The second informal step appeal request shall:

1. Be made within 15 days of the date of the first step response;
2. Specify the reason for requesting the second step informal review and include such information, explanation, or additional materials as necessary to support the applicant's/licensee's belief that the decision reached at the first step was unreasonable, arbitrary or capricious; and
3. Include a copy of relevant materials and correspondence developed at the first step of the informal appeal process.

D. Within 30 days of receipt of this request, the Director's office shall respond in writing or schedule the conference.

E. When the request was for a conference, the designated program management staff shall, within 10 days following the conference, confirm to the applicant/licensee in writing the results of the conference and any subsequent decisions made by program management staff.

~~§ 5.4.~~ § 6.4. Nothing in this article shall prohibit the Department of Social Services from exercising its responsibility and authority to enforce the disputed regulation during the informal appeal process, including proceeding directly to denial or revocation of a license, or recommending petitions for injunction when, in the judgment of the Director, Division of Licensing Programs, there is sufficient risk to persons in care to do so whether or not the steps available in the informal appeal process have been exhausted.

## PART VI: PART VII. COMPLAINT INVESTIGATION.

~~§ 6.1.~~ § 7.1. A complaint is an accusation that a licensed facility/agency is not in compliance with the licensing standards or statute or an accusation that the children/adults in the care of a licensed facility/agency are being abused, neglected, or exploited. Complaints may be received in written or oral form and may be anonymous. The department maintains a parental hot line to respond to complaints regarding child care facilities.

~~§ 6.2.~~ § 7.2. The department has the responsibility to investigate any complaints regarding alleged violations of the standards or statute and complaints of the abuse and neglect of persons in care.

~~§ 6.3.~~ Whenever licensing staff become aware of or suspect adult/child abuse, neglect, or exploitation in a facility/agency, the local department of social services, in the locality of the licensed facility/agency, shall be notified immediately.

When staff of the local department of social services receive a complaint of adult/child abuse, neglect, or exploitation in a licensed facility, the appropriate licensing unit shall be notified immediately.

Through separate or joint investigations, the local department of social services worker determines whether or not abuse, neglect or exploitation has occurred within applicable law and policies while the licensing representative determines whether or not the facility/agency has violated the licensing standard(s) or statute.

~~§ 6.4.~~ § 7.3. When the investigation is completed, the licensee shall be notified of the findings of the investigation. Any necessary corrective action will be identified.

§ 7.4. The licensee is responsible for correcting any areas of noncompliance found during a complaint investigation.

## PART VII. REVOCAION AND DENIAL.

§ 7.1. Revocation is the act of withdrawing permission to operate during the effective dates of the license. Denial is the act of refusing to grant a license after receipt of an original or renewal application. The process for revocation or denial is the same.

§ 7.2. The following reasons may be considered by the department for revocation or denial:

1. Failure to demonstrate or maintain compliance with the applicable standards or for violations of the provisions of the Code of Virginia;
2. Permitting, aiding, or abetting the commission of any illegal act in the licensed facility/agency;
3. Engaging in conduct or practices which are in violation of statutes and standards related to abuse, neglect, or exploitation of children/adults; or
4. Deviating significantly from the program or services for which a license was issued without obtaining prior written approval from the department, or failure to correct such deviations within a specified time, or both.

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## § 7.3. Process.

A. The applicant/licensee will receive a notice of the department's intent to deny or revoke a license. This notice shall describe the reasons for the revocation or denial.

B. Upon receipt of the notice of intent to revoke or deny, the applicant/licensee has the right to appeal the decision in accordance with the Administrative Process Act (§ 9-6.14.1 of the Code of Virginia). The procedure for requesting an administrative hearing shall be outlined in the notice.

C. In the event the applicant/licensee does not request an administrative hearing, the facility/agency shall cease to operate or shall modify the operation such that it is no longer subject to licensure.

D. If a facility/agency continues to operate in violation of the statute after the date the revocation/denial is final, the department shall initiate appropriate legal action.

## § 7.4. Appeals.

A. If an administrative hearing is requested, the applicant/licensee has the right to be represented by counsel at the hearing.

B. The hearing shall be conducted by an individual appointed from a roster of attorneys, approved to serve as hearing officers, which is maintained by the Supreme Court of Virginia.

C. Once the hearing is completed, the hearing officer shall submit written findings of fact and conclusions of law and recommendations to the Commissioner of the Department of Social Services.

D. The commissioner may authorize continued licensure in the final order.

If the commissioner authorizes revocation or denial of the license, the time frame in which operation is to cease shall be included in the final order. The licensee may appeal this decision to the appropriate Circuit Court under the provisions of §§ 63.1-180 and 63.1-213 of the Code of Virginia.

## PART VIII. SANCTIONS.

§ 8.1. The commissioner of the Department of Social Services may impose such sanctions or take such actions as are appropriate for violation of any of the standards or statute or abuse/neglect of persons in care. Such sanctions include administrative sanctions and the imposition of civil penalty or appointment of receivership.

## § 8.2. Administrative sanctions.

The following are administrative sanctions which may be imposed against a licensed facility:

1. Reducing the capacity of any adult care facility;
2. Restricting or prohibiting new admissions to any adult care facility;
3. Denying renewal of the license of any licensed facility; and
4. Revoking the current license of any licensed facility.

## § 8.3. Civil penalty or appointment or receivership.

In addition to the administrative sanctions listed in § 8.2 of these regulations the commissioner may:

1. Petition the circuit court or the city or county in which the facility is located to impose a civil penalty against any adult care facility; or
2. Petition the circuit court for the city or county in which the facility is located to appoint a receiver for any adult care facility.

§ 8.4. The following reasons may be considered by the department for the imposition of administrative sanctions or the imposition of civil penalties.

1. Failure to demonstrate or maintain compliance with the applicable standards or for the violations of the provisions of the Code of Virginia;
2. Permitting, aiding, or abetting the commission of any illegal act in the licensed facility/agency;
3. Engaging in conduct or practices which are in violation of statutes and standards relating to abuse, neglect, or exploitation of children/adults; or
4. Deviating significantly from the program or services for which a license was issued without obtaining prior written approval from the department, or failure to correct such deviations within a specified time.

## § 8.5. Process.

A. The applicant/licensee will receive a notice of the department's intent to impose an administrative sanction. This notice shall describe the reasons for the imposition of the administrative sanction.

B. Upon receipt of the notice to impose an administrative sanction, the applicant/licensee has the right to appeal the decision in accordance with the Administrative Process Act (§ 9-6.14.1 of the Code of Virginia). The procedures for requesting an administrative hearing shall be outlined in the notice. All appeals from notice of imposition of administrative sanctions shall be

# Proposed Regulations

received in writing from the applicant/licensee within 15 days of the date of receipt of the notice.

C. In the event the applicant/licensee does not request an administrative hearing within 15 days, the facility/agency must modify the operation such that it meets the requirements of the imposed sanction(s).

D. If the facility/agency continues to operate in violation of the imposed sanction(s) after the date the sanction(s) was to have been met, the department shall initiate appropriate administrative/legal action.

E. In requesting the imposition of a civil penalty for any violation, the department will recommend that the penalty not exceed the lesser of \$5.00 per licensed capacity or \$250 per day for each day the adult care facility is in violation, beginning on the date the facility was first notified of the violation. The date of notification under this sanction shall be deemed to be the date of receipt by the facility of written notice of the alleged violation. This notice shall include specifics of the violation charged and it shall be hand delivered or sent by overnight express mail or by registered or certified mail, return receipt requested.

F. Upon filing of a petition for appointment of a receiver, the court shall hold a hearing, at which time the department and the licensee of the adult care facility may participate and present evidence.

## 8.6. Appeals.

A. If an administrative hearing is requested, the applicant/licensee has the right to be represented by counsel at the hearing.

B. The hearing shall be conducted by an individual appointed from a roster of attorneys, approved to serve as hearing officers, which is maintained by the Supreme Court of Virginia.

C. Once the hearing is completed, the hearing officer shall submit written findings of fact and conclusion of law and recommendations to the commissioner of the Department of Social Services.

D. The commissioner may (i) authorize the imposition of the sanction(s); (ii) authorize the imposition of a less severe sanction(s); or (iii) authorize the negation of the intent to impose a sanction(s) in the final order.

If the commissioner authorized the imposition of the sanction(s), the time frame in which the facility must conform to the requirements of the sanction(s) shall be included in the final order. The applicant/licensee may appeal this decision to the appropriate circuit court under the provisions of § 63.1-312 of the Code of Virginia.

E. If the applicant/licensee wishes to appeal the imposition of a civil penalty or the appointment of a

receiver, such appeal must be made to the appropriate court in the city or county where the facility is located.

## ATTACHMENT I.

An application form to operate a child placing agency may be obtained from the following office:

Division of Licensing Programs  
Department of Social Services  
8007 Discovery Drive  
Richmond, Virginia 23229  
Telephone: (804) 662-9025

An application form to operate a licensed facility, excluding a child placing agency, may be obtained from the following offices:

### OFFICE

Abingdon Out Station  
190 Patton Street  
Abingdon, VA 24210  
Telephone: (703) 628-5171

### AREA SERVED

Serving Counties of: Bland, Buchanan, Carroll, Dickenson, Grayson, Lee, Patrick, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe

Serving Cities of: Bristol, Galax, Norton

### OFFICE

Central Regional Office  
Wythe Building, Suite 300  
1604 Santa Rosa Road  
Richmond, VA 23229-5008  
Telephone: (804) 662-9743

### AREA SERVED

Serving Counties of: Amelia, Brunswick, Buckingham, Charles City, Charlotte, Chesterfield, Cumberland, Dinwiddie, Essex, Fluvanna, Goochland, Halifax, Hanover, Henrico, King and Queen, King William, Lancaster, Louisa, Lunenburg, Mecklenburg, New Kent, Northumberland, Nottoway, Powhatan, Prince Edward, Prince George, Richmond, Westmoreland

Serving Cities of: Colonial Heights, Hopewell, Petersburg, Richmond, South Boston

### OFFICE

Eastern Regional Office  
Pembroke Office Park  
Pembroke IV Office Building  
Suite 300



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Virginia Beach, VA 23462-5496  
Telephone: (804) 473-2100

Serving Counties of: Accomack, Gloucester, Greenville, Isle of Wight, James City, Mathews, Middlesex, Northampton, Southampton, Surry, Sussex, York

Serving Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg

## OFFICE

Fairfax Out Station

Serving Counties of: Arlington, Loudoun, Fairfax

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## OFFICE

Northern Regional Office

Serving Counties of: Caroline, Culpeper, Fauquier, King George, Prince William, Rappahannock, Spotsylvania, Stafford

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## OFFICE

Piedmont Regional Office  
Commonwealth of Virginia Building  
210 Church Avenue, S.W., Suite 100  
Roanoke, VA 24011-1779  
Telephone: (703) 982-7920

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## OFFICE

Verona Out Station  
Post Office Box 350  
Verona, VA 24482-0350  
Telephone: (703) 332-8900

Serving Counties of: Albemarle, Augusta, Clarke, Frederick, Greene, Highland, Madison, Orange, Page, Rockingham, Shenandoah, Staunton, Warren

Serving Cities of: Charlottesville, Harrisonburg, Waynesboro, Winchester.

## ATTACHMENT II SCHEDULE OF FEES

These fees are adopted under the sole authority of the State Board of Social Services (§§ 63.1-174.01 and 63.1-196.5). The fee schedule was revised under the authority of the Board, effective July 1, 1991.

The regulation, entitled "Fee Requirements for Processing Applications," follows:

By act of the General Assembly and effective February 1, 1984, the Department of Social Services is authorized to charge fees for processing applications for licenses. (§§ 63.1-174.01 and 63.1-196.5 of the Code of Virginia).

Fees will be charged to process all new or renewal applications for facilities or agencies for adults or children subject to licensure solely by the Department of Social Services; however, no fee will be charged to process a renewal application for an annual license directly following the issuance of a conditional license.

Applicants shall use the following schedule of fees to determine the correct fee to pay for processing all applications.

### Schedule of Fees

|                         |       |
|-------------------------|-------|
| Capacity 1 - 12 .....   | \$1   |
| Capacity 13 - 25 .....  | \$3   |
| Capacity 26 - 50 .....  | \$70  |
| Capacity 51 - 75 .....  | \$105 |
| Capacity 76 - 200 ..... | \$140 |
| Capacity 201 & up ..... | \$200 |

|                               |                  |
|-------------------------------|------------------|
| Family Day Care Systems ..... | \$ 70 (flat fee) |
| Child Placing Agencies .....  | \$ 70 (flat fee) |

The fee shall be mailed with the application for a license. No application for a license will be deemed complete unless it is accompanied by the correct fee.

The fee shall be paid by personal check, money order, or certified check, made payable to "Treasurer of Virginia."

A fee that is incorrect in amount or is made payable other than to the Treasurer of Virginia will be returned to an applicant. Otherwise, no fee will be returned or refunded for any reason.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

Title of Regulation: VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.

Statutory Authority: §§ 54.1-113 and 54.1-201 of the Code of Virginia.

Public Hearing Date: September 26, 1991 - 10 a.m.  
(See Calendar of Events section  
for additional information)

## Summary:

*The proposed amended regulations apply to approximately 4,000 licensed operators and interested parties who practice in the Commonwealth. These regulations are the result of implementing the regulatory review process which indicated a need to amend the current regulations. The regulations have been reorganized to provide clarity in the licensing procedure, including addition of a new class of waterworks; clarification of requirements for operator experience and education; and addition of criteria for approval of specialized training courses.*

VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.

## PART I. DEFINITIONS, LICENSING AND CLASSIFICATION REQUIREMENTS.

### § 1.1. Definitions.

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

*"Board"* means the Board for Waterworks and Wastewater Works Operators.

*"Category"* means the two divisions of waterworks and wastewater works and operators' licenses, one being waterworks and the second being wastewater works.

*"Classification"* means the four divisions of each category of waterworks and wastewater works and operators' licenses; Classification "I" representing the highest and Classification "IV" representing the lowest. Class "I" represents the highest classification.

*"Licensure"* means a method of regulation whereby the Commonwealth, through the issuance of a license, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation which is unlawful to practice without a license.

*"Operator"* means any individual employed or appointed by any owner, and who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control waterworks or wastewater works operations. Not included in this definition are superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks or wastewater works.

*"Operator-in-training"* means an individual employed by an owner to work under the direct supervision and direction of an operator holding a valid license in the proper category and classification for the purpose of gaining experience and knowledge in the duties and responsibilities of an operator of a waterworks or wastewater works. An operator-in-training is not an operator.

*"Owner"* means the Commonwealth of Virginia, or any political subdivision thereof, any public or private institution, corporation, association, firm or company organized or existing under the laws of this Commonwealth or of any other state or nation, or any person or group of persons acting individually or as a group, who own, manage, or maintain waterworks or wastewater works.

*"Person"* means any individual, group of individuals, a corporation, a partnership, a business trust, an association or other similar legal entity engaged in operating waterworks or wastewater works.

*"Responsible charge"* means designation by the owner of any individual to have duty and authority to operate or modify the operation of waterworks or wastewater works processes.

*"Wastewater works"* means each system of (i) sewerage systems or sewage treatment works serving more than 400 persons, as set forth in § 62.1-44.18 of the Code of Virginia; (ii) sewerage systems or sewage treatment works serving fewer than 400 persons, as set forth in § 62.1-44.18 of the Code of Virginia, if so certified by the State Water Control Board; and (iii) facilities for discharge to state waters of industrial wastes or other wastes, if certified by the State Water Control Board.

*"Waterworks"* means each system of structures and appliances used in connection with the collection, storage, purification, and treatment of water for drinking or domestic use and the distribution thereof to the public, except distribution piping. Systems serving fewer than 400 persons shall not be considered to be a waterworks unless certified by the Department of Health to be such.

### § 1.2. License required.

To serve as an operator of a waterworks or wastewater works, it shall be necessary to hold a valid license issued by the board of a classification equal to or greater than the classification of the waterworks or wastewater works and in the appropriate category.

### § 1.3. License renewal required.

A. Licenses for waterworks operators shall expire on the last day of February of each odd-numbered year. Licenses for wastewater works operators shall expire on the last day of February of each even-numbered year. The Department of Commerce shall mail a renewal notice to the licensee outlining the procedures for renewal. Failure

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to receive this notice shall not relieve the licensee of the obligation to renew.

B. Each licensee applying for renewal shall return the renewal notice and fee established in § 1.4 of these regulations to the Department of Commerce prior to the expiration date shown on the license. If the licensee fails to receive the renewal notice, a copy of the expired license may be submitted with the required fee.

C. If the operator fails to renew the license within 30 days after the expiration date on the license, a penalty fee as established in § 1.4 of these regulations shall be required, in addition to the renewal fee.

D. Any operator failing to renew within one year of the expiration date on the license must apply for a new license by examination in accordance with Part II of these regulations. Such an individual shall be deemed to be eligible to sit for the same category and class of license as the expired license.

E. Limited waterworks operator licenses, issued under the authority of § 4.02.2 of the Rules and Regulations of the State Board for Certification of Operators of Water and Wastewater Works (effective March 1, 1977), expiring on February 28, 1993, will not be renewed. Limited wastewater works operator licenses, issued under the authority of § 4.02.2 of the Rules and Regulations of the State Board for Certification of Operators of Water and Wastewater Works (effective March 1, 1977), expiring on February 28, 1994, will not be renewed. A holder of a limited license shall be deemed to have met the experience and education requirements of these regulations and shall be eligible to sit for an examination upon application in the same category and in the same or lower classification as the limited license currently held.

## § 1.4. Fees.

A. Fees are nonrefundable and shall not be prorated.

B. The following fees shall apply:

|   |        |
|---|--------|
| a. 1. Application for licensure by examination or by reciprocity . . . . .        | \$ 65. |
| b. 2. Application for reexamination . . . . .                                     | \$ 45. |
| c. 3. Renewal of license . . . . .  | \$ 55. |
| d. 4. Penalty for failure to renew license within 30 days of expiration . . . . . | \$ 55. |

## § 1.5. Waterworks.

A. Class V shall mean any waterworks as follows:

1. Waterworks employing no treatment other than chlorine disinfection, including consecutive water systems or groundwater systems with no treatment or consecutive systems employing repumping or rechlorination or both, and classified by the

*Department of Health as public water supplies; or*

2. *Waterworks classified by the Department of Health as Class V waterworks.*

~~A.~~ B. Class IV shall mean any waterworks as follows:

1. Waterworks employing disinfection, corrosion control, iron and manganese removal, softening, *slow sand filtration*, rechlorination, and other approved methods of treatment, or any combination thereof, except fluoridation, serving less than 5,000 persons and classified by the Department of Health as public water supplies; or

2. Waterworks classified by the Department of Health as Class IV ~~facilities~~ *waterworks*.

~~B.~~ C. Class III shall mean any waterworks as follows:

1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration *other than slow sand filtration*, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of less than 5,000, or having a rated capacity of less than 0.5 mgd; or

2. Waterworks employing processes including disinfection, corrosion control, iron and manganese removal, softening, rechlorination, and other approved methods of treatment serving 5,000 persons or more; or

3. Waterworks employing fluoridation which are not under a higher classification and which are classified by the Department of Health as public water supplies; or

4. Waterworks classified by the Department of Health as Class III ~~facilities~~ *waterworks*.

~~C.~~ D. Class II shall mean any waterworks as follows:

1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of at least 5,000 persons, but less than 50,000 persons, or having a rated capacity of at least 0.5 mgd, but less than 5.0 mgd; or

2. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, and disinfection, employing the high rate filtration process, and having a filter rate greater than 2.0 gpm/sq. ft., serving a population less than 50,000 persons, or having a rated capacity less than 5.0 mgd; or

3. Waterworks classified by the Department of Health

as Class II facilities waterworks .

⊖ E. Class I shall mean any waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of 50,000 persons or more or having a rated capacity of 5.0 mgd or more.

## § 1.6. Wastewater works.

A. Class IV shall mean any wastewater works as follows:

1. Raw sewage stabilization ponds with a design hydraulic capacity greater than 0.04 mgd but equal to or less than 1.0 mgd; or
2. Wastewater works classified by the State Water Control Board as Class IV wastewater works.

B. Class III shall mean any wastewater works as follows:

1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.5 mgd; or
2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.5 mgd; or
3. Wastewater works using combinations of biological and physical/chemical treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.1 mgd; or
4. Raw sewage stabilization ponds, with a design hydraulic capacity greater than 1.0 mgd; or
5. Wastewater works that do not use biological or physical/chemical treatment methods but are classified by the State Water Control Board as Class III wastewater works.

C. Class II shall mean any wastewater works as follows:

1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or
2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or
3. Wastewater works using combinations of biological and physical/chemical treatment methods, having a design hydraulic capacity greater than 0.1 mgd, but equal to or less than 2.5 mgd.

D. Class I shall mean any wastewater works as follows:

1. Wastewater works using biological treatment

methods having a design hydraulic capacity greater than 5.0 mgd; or

2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 5.0 mgd; or

3. Wastewater works using combinations of biological and physical/chemical treatment methods, having a design hydraulic capacity greater than 2.5 mgd.

E. Biological treatment methods as used in this section shall mean a fixed film or suspended growth biological treatment process, such as:

1. Activated sludge.
2. Trickling filter.
3. Aerated lagoon.
4. Rotating biological contactor.
5. Land application.
6. Biological nutrient removal process.

F. Physical/chemical treatment methods as used in this section shall mean a treatment process such as:

1. Chemical coagulation, flocculation and precipitation.
2. Filtration.
3. Carbon adsorption.
4. Breakpoint chlorination.
5. Demineralization (including but not limited to ion exchange, reverse osmosis, electro dialysis).

## PART II. ENTRY REQUIREMENTS.

### § 2.1. Licensure.

The board shall issue a Class V, IV, III, II, or I license only after an individual has met all ~~education~~, experience and examination requirements as set forth in these regulations. Each license shall be in the appropriate category and classification and shall indicate the highest classification of works the holder is qualified to operate.

### § 2.2. Licensure by reciprocity.

The board may issue a license to any person holding a *currently valid* license or certificate in any state, territory, or possession of the United States, or in any foreign country, or a certificate issued by the Association of Boards of Certification, provided the requirements and standards under which the license or certificate was issued

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are equivalent to those established by these regulations.

## § 2.3. Licensure by education, experience, and examination.

The education and experience requirements are summarized in Table 1. Licensure is based upon having applicable experience and demonstrating minimum required knowledge, skills and abilities by examination. Education, specialized training, and experience in the other category may be substituted for the required experience as specified in this section. These requirements are summarized in Table 1.

The education and experience requirements are summarized in Table 1.

### A. Experience.

For purposes of these regulations, experience requirements are expressed in terms of calendar periods of full-time employment with actual hands-on experience as an operator or as an operator-in-training at a waterworks or wastewater works in the same category as the license being applied for. All experience claimed on the application for licensure must be certified by the individual's immediate supervisor.

1. A year of full-time employment is defined as 1760 hours per year or 220 workdays per year. A workday is defined as attendance at a waterworks or wastewater works to the extent required for proper operation.

2. Experience gained as an operator-in-training must be obtained under the supervision of an operator holding a valid license of the same category and of a classification equal to or higher than the classification of the waterworks or wastewater works at which the experience is gained. The supervising operator shall certify the experience on the application form.

3. Partial credit may be given for actual hours of work or workdays experience if the applicant works as an operator or as an operator-in-training less than full time.

4. Experience limited to wastewater collection system operation and maintenance, laboratory work, plant maintenance, and other nonoperating duties shall not be counted as experience as an operator or as an operator-in-training.

5. Experience limited to water distribution system operation and maintenance shall be considered only when applying for a Class V waterworks operator license.

### B. Specific requirements for licenses.

#### 1. Specific requirements for a Class V license.

Applicants for licensure as a Class V waterworks operator shall meet one of the following requirements and pass a board-approved examination:

a. Have (i) a high school diploma of GED and (ii) at least six months of experience as an operator-in-training of waterworks of Class V, Class IV, Class III, Class II, or Class I.

b. Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training of waterworks of Class V, Class IV, Class III, Class II, or Class I.

A. 2. Specific requirements for a Class IV license. Applicants for licensure as a Class IV waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

1. a. Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training of waterworks or wastewater works of Class IV or higher, Class III, Class II, or Class I; or

2. b. Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training of waterworks or wastewater works of Class IV or higher, Class III, Class II, or Class I.

B. 3. Specific requirements for a Class III license. Applicants for licensure as a Class III waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

1. a. Have (i) a bachelor's degree in civil, environmental or sanitary engineering or engineering technology, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both; and (ii) at least one year of experience as an operator-in-training of waterworks or wastewater works of Class IV or higher, Class III, Class II, or Class I; or

2. b. Have (i) a bachelor's degree in civil, environmental or sanitary engineering or engineering technology, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both; (ii) a Class IV license; and (iii) at least six months of experience a total of at least one year of experience as an operator or operator-in-training of waterworks or wastewater works of Class IV or as an operator-in-training of waterworks or wastewater works of Class III, Class II, or Class I; or

3. c. Have (i) a high school diploma or GED and

(ii) at least two years of experience as an operator-in-training of waterworks or wastewater works of Class IV or higher, Class III, Class II, or Class I; or

4. d. Have (i) a high school diploma or GED, (ii) a Class IV license, and (iii) at least 1-1/2 years a total of at least two years of experience as an operator or operator-in-training of waterworks or wastewater works of Class IV or as an operator-in-training of waterworks or wastewater works of Class III, Class II, or Class I; or

5. e. Have (i) no high school diploma, (ii) a Class IV license, and (iii) at least three years a total of at least four years of experience as an operator or operator-in-training of waterworks or wastewater works of Class IV or as an operator-in-training of waterworks or wastewater works of Class III, Class II, or Class I.

C. 4. Specific requirements for Class II license. Applicants for licensure as a Class II waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

1. a. Have (i) a bachelor's degree in civil, environmental or sanitary engineering or engineering technology, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both; and (ii) a total of at least 1-1/2 years of experience, of which at least six months without substitutions shall be as an operator-in-training of waterworks or wastewater works of Class III or higher, Class II or Class I; or

2. Have (i) a bachelor's degree in civil, environmental or sanitary engineering, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both; (ii) a Class III license, and (iii) at least six months of experience as an operator or operator-in-training of waterworks or wastewater works of Class III or as an operator-in-training of waterworks or wastewater works of Class II or Class I; or

3. b. Have (i) a bachelor's degree in civil, environmental or sanitary engineering or engineering technology, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both; (ii) a Class IV license; and (iii) at least one year of experience a total of at least 1-1/2 years of experience, of which at least six months without substitutions shall be as an operator-in-training of waterworks or wastewater works of Class III, Class II or Class I; or

c. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class III license; and (iii) a total of at least 1-1/2 years of experience, of which at least six months, without substitutions shall be as an operator or operator-in-training of waterworks or wastewater works of Class III or as an operator-in-training of waterworks or wastewater works of Class II or Class I; or

4. d. Have (i) a high school diploma or GED, (ii) a Class III license, and (iii) at least two years of experience a total of at least four years of experience of which at least two years without substitutions shall be as an operator or operator-in-training of waterworks or wastewater works of Class III or as an operator-in-training of waterworks or wastewater works of Class II or Class I; or

5. e. Have (i) no high school diploma, (ii) a Class III license, and (iii) at least three years of experience a total of at least seven years of experience of which at least three years without substitutions shall be as an operator or operator-in-training of waterworks or wastewater works of Class III or as an operator-in-training of waterworks or wastewater works of Class II or Class I.

D. 5. Specific requirements for a Class I license. Applicants for licensure as a Class I waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

1. a. Have (i) a bachelor's degree in civil, environmental or sanitary engineering or engineering technology, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both; (ii) a Class II license; and (iii) at least one year of experience a total of at least 1-1/2 years of experience, of which at least one year without substitutions shall be as an operator or operator-in-training of waterworks or wastewater works of Class II or as an operator-in-training of waterworks or wastewater works of Class I; or

2. b. Have (i) a high school diploma or GED, (ii) a Class II license and (iii) at least two years of experience a total of at least six years of experience of which at least two years without substitutions shall be as an operator or operator-in-training of waterworks or wastewater works of Class II or as an operator-in-training of waterworks or wastewater works of Class I; or

3. c. Have (i) no high school diploma, (ii) a Class II license, and (iii) at least three years of experience

# Proposed Regulations

*a total of at least 10 years of experience of which at least three years without substitutions shall be as an operator or operator-in-training of waterworks or wastewater works of Class II or higher as an operator-in-training of waterworks or wastewater works of Class I.*

## § 2.4. Education.

Education may be substituted for experience as follows:

A. Education or specialized training may not reduce the actual operating experience required for licensure to less than two and one-half years for Class I, to less than one and one-half years for Class II, to less than one year for Class III, or to less than six months for Class IV.

B. Education substituted for experience may not be used to meet the education requirement.

### C. Specialized training.

Waterworks or wastewater works operator training courses, seminars, workshops, technical conferences, or similar specialized training, specifically approved by the board may be substituted for the required experience.

1. Time calculations shall be based on the continuing education unit (CEU).

2. Ten classroom hours shall equal one CEU (10 hours = 1.0 CEU).

3. One CEU may be substituted for one month of operating experience.

### D. Formal education.

Formal courses at a post-secondary level in physical, biological or chemical science, engineering, engineering technology, or public health may be substituted for a part of the required experience.

1. Calculations shall be based on semester hours (one quarter hour = 2/3 of a semester hour).

2. One semester hour may be substituted for one month of operating experience.

E. Specialized training and formal courses used in qualifying for a lower class license shall not be used again to meet the additional requirements for a higher class license.

## § 2.5. Experience.

Required work experience is based on full-time work. Full-time work is defined as not less than 1760 hours per year. Experience gained as an operator-in-training shall be certified on the application form by an operator holding a valid license of the proper category and classification.

A. Partial credit will be given for actual hours of work experience if less than full-time.

B. At least 50% of the experience required for a license shall be obtained in the category of the license, with not less than six months of full-time employment (880 man-hours) in the category of the license. Partial credit may be given for related experience in the other category at a rate of up to 50% of the actual experience gained in the other category.

C. Experience used in qualifying for a lower class license shall not be used again to meet the additional requirements for a higher class license.

D. Experience limited to distribution and collection system operation and maintenance, laboratory work, plant maintenance, and other nonoperating duties shall not be counted as experience as an operator.

### C. Substitutions for required experience.

*For the purpose of meeting the experience requirements for licenses of Class III, Class II, and Class I, experience in the other category, relevant training in waterworks and wastewater works operation, and formal education may be substituted for actual hands-on experience in the category being applied for.*

#### 1. Limitations on substitution.

a. Substitutions may not reduce the actual operator experience required to less than 2-1/2 years for a Class I license, to less than 1-1/2 years for a Class II license, to less than one year for a Class III license, or to less than 1/2 year for a Class IV or Class V license.

b. Under no circumstances shall experience, training, and education substitutions exceed 50% of the total experience required in the appropriate subdivision of § 2.3 A.

c. No experience, training, or education substitutions are permitted for the experience required to obtain a Class V or a Class IV license as specified in § 2.3 A.

2. Experience substitution. One-half of the actual experience gained in the other category may be substituted for required experience in the category of the license being applied for.

3. Education substitution. Education may be substituted for part of the required experience, subject to the limitations in § 2.4 A as follows:

a. Education used to meet the educational requirements for any class of license may not be substituted for experience.

b. *Formal education. Formal education courses at a post-secondary level in physical, biological or chemical science; engineering or engineering technology; waterworks or wastewater works operation; or public health may be substituted for part of the required experience.*

(1) *All education substituted for experience must be relevant to the category and classification of the license being applied for.*

(2) *Education may be substituted for experience at a rate of one month experience for each semester hour of college credit approved by the board. One quarter hour of college credit will be considered equal to 2/3 of a semester hour.*

c. *Specialized training. Waterworks or wastewater works operator training courses, seminars, workshops, or similar specialized training, specifically approved by the board, may be substituted for part of the required experience.*

(1) *All training substituted for experience must be relevant to the category and classification of the license being applied for.*

(2) *Training may be substituted for experience at a rate of one month experience for each continuing education unit (CEU) approved by the board. One CEU is awarded for each 10 hours of classroom contact time or for each 20 hours of laboratory exercise and field trip time. No credit towards CEU's is granted for breaks, meals, receptions, and time other than classroom, laboratory and field trip contact time.*

(3) *All courses used for substitution must be approved by the board utilizing the criteria set forth in Appendix A.*

## § 2-6: D. Examination.

A board-approved examination shall be administered at least twice a year.

A. 1. An individual may take the examination prior to fulfilling the education and experience requirements, provided all requirements will be met within three months after the date the applicant will take the examination. The results of the examination and the license shall not be issued until all applicable requirements have been met and satisfactorily verified.

B. 2. An individual who is unable to take an examination at the time scheduled shall notify the board prior to the date of the examination; such an individual shall be rescheduled for the next examination. Failure to notify the board may require the submittal of a new application and payment of

fees, in accordance with §§ 1.4 and 2.7 A 2.4 A .

C. 3. Upon submission of an application for reexamination form provided by the board and payment of the reexamination fee, an applicant who is unsuccessful in passing an examination will be allowed to retake any examination(s) given within two years of the date of notification of initial unsuccessful examination results. After the two-year period has elapsed, an applicant will be required to submit a new application with fee in accordance with these regulations in order to take an examination. Applications for reexamination must be received in the Department of Commerce at least 60 days prior to a scheduled examination in order to be eligible to sit for that examination.

## § 2-7: § 2.4. Application.

A. Any person seeking licensure by reciprocity or by education, experience, and examination shall submit a fully-completed application with the appropriate fee(s) attached. Incomplete applications will be returned to the applicant. Application for licensure by examination must be received in the Department of Commerce 60 days prior to a scheduled examination in order to be eligible to sit for that examination.

B. All applications of candidates will be reviewed by the Department of Commerce staff to determine eligibility for licensure and examination within 50 days of receipt at the offices of the Department of Commerce. Any applicant may appeal the initial review, in writing, to the board within 60 days of the staff's determination. No applicant will be approved for licensure unless he meets all of the requirements of Part II of these regulations.

C. Applicants who have been found ineligible to sit for an examination may request further consideration by submitting a letter to the board with the necessary evidence of additional qualifications, training, or experience. No additional fee will be required, provided all requirements for licensing are met within two years from the date of original application.



# Proposed Regulations

Table 1. Summary of education and experience requirements for operator's license by class.

| License Class | Education <sup>1</sup> | Current License | Minimum Total Years Experience Required (Years) | Experience must be at this class facility or higher Time in Years (Years) |       |        |       | Maximum Substitution Permitted (Years) |
|---------------|------------------------|-----------------|---|---|-------|--------|-------|--|
|               |                        |                 |   | Cl.V  | Cl.IV | Cl.III | Cl.II |  |
| V             | BS degree              | None            | 0.5   | 0.5   |       |        |       | 0.0                                    |
|               | High School            | None            | 0.5   | 0.5   |       |        |       | 0.0                                    |
|               | None                   | None            | 1.0   | 1.0   |       |        |       | 0.0                                    |
| IV            | BS degree              | None            | 0.5   |   | 0.5   |        |       | 0.0                                    |
|               | High School            | None            | 0.5   |   | 0.5   |        |       | 0.0                                    |
|               | None                   | None            | 1.0   |   | 1.0   |        |       | 0.0                                    |
| III           | BS degree              | None            | 1.0   |   | 1.0   |        |       | 0.0                                    |
|               |                        | IV              | 1.0   |   | 1.0   |        |       | 0.0                                    |
|               | High School            | None            | 2.0   |   | 2.0   |        |       | 1.0                                    |
|               |                        | IV              | 2.0   |   | 2.0   |        |       | 1.0                                    |
|               | None                   | IV              | 4.0   |   | 4.0   |        |       | 2.0                                    |
| II            | BS degree              | None            | 1.5   |   |       | 1:50.5 |       | 0.0                                    |
|               |                        | IV              | 1.5   |   | 0:5   | 1:00.5 |       | 0.0                                    |
|               |                        | III             | 1.5   |   | 1:0   | 0.5    |       | 0.0                                    |
|               | High School            | III             | 4.0   |   | 2:0   | 2.0    |       | 2.0                                    |
|               | None                   | III             | 7.0   |   | 4:0   | 3.0    |       | 3.5                                    |
| I             | BS degree              | II <sup>2</sup> | 2.5   |   |       | 1:5    | 1.0   | 0.0                                    |
|               |                        | II <sup>3</sup> | 2.5   |   | 1:0   | 0:5    | 1:0   | 0:0----                                |
|               | High School            | II <sup>4</sup> | 2.5   |   | 0:5   | 1:0    | 1:0   | 0:0----                                |
|               |                        | II              | 6.0   |   | 2:0   | 2:0    | 2.0   | 3.0                                    |
|               | None                   | II              | 10.0  |   | 4.0   | 3.0    | 3.0   | 5.0                                    |

This table is provided for information only and does not supersede the text of the regulations.

<sup>1</sup> BS degree = bachelor's degree in civil, environmental or sanitary engineering; or engineering technology; or in physical, biological, or chemical science or engineering with at least 3 semester hours in water and/or wastewater treatment technology; or both. All other bachelor's degrees will be considered the equivalent of high school education for the purpose of meeting the education requirement, although individual courses in science, engineering, or public health may be substituted for experience in accordance with § 2.3 C.

High School = high school diploma or GED or college degree other than BS degree defined above.

<sup>2</sup> First license was Class II:

<sup>3</sup> First license was Class III:

<sup>4</sup> First license was Class IV:

All experience must be at a waterworks or wastewater works of the appropriate category and of the class indicated a class equal to or higher than the class indicated in the table. Experience gained at the a waterworks or wastewater works of higher class than currently held license must be under direct supervision and direction of a properly licensed operator.

## PART III. STANDARDS OF PRACTICE.

### § 3.1. Discipline.

A. The Board, in its discretion, may fine any licensee, or may suspend or revoke a license, either or both, if it finds that:

1. The license was obtained or renewed through fraud or misrepresentation; or
2. The licensed operator has been found guilty by the board, or by a court of any material misrepresentation in the course of performing his operating duties; or
3. The licensed operator has not demonstrated reasonable care, judgment or application of his knowledge and ability in the performance of his operating duties; or
4. The licensed operator violates or induces another person to violate any provisions of Chapters 1, 2, 3, and 23 of Title 54.1 of the Code of Virginia, or any provisions of these regulations.

B. The board, in its discretion, may refuse to grant or renew a license of any person for any of the reasons specified in subsection A of this section.

#### *Appendix A - Approval of Specialized Training*

*Specialized waterworks and wastewater works operator training may be substituted for some of the experience required for Class III, Class II and Class I licenses, subject to the limitations in this appendix. Training courses that may be substituted for required experience must be approved by the board prior to the training activity in accordance with the following procedure:*

*A. Training activities for which experience credit may be granted must be conducted in general conformance with the guidelines of the Council on the Continuing Education Unit. The board reserves the right to waive any of the requirements of the council's guidelines on a case-by-case basis.*

*1. Organization. The board will only approve training offered by a sponsor who is an identifiable organization with a mission statement outlining its functions, structure, process and philosophy, and that has a staff of one or more persons with the authority to administer and coordinate a CEU program.*

*2. CEU records. The board will only approve training offered by a sponsor who maintains CEU records for all participants for a minimum of 20 years, and who has a written policy on retention and release of CEU records.*

*3. Instructors. The board will only approve training*

*conducted by personnel who have demonstrated competence in the subject being taught, an understanding of the learning objective, a knowledge of the learning process to be used, and a proven ability to communicate.*

*4. Objectives. The board will only approve courses that have a series of stated objectives that are consistent with the job requirements of waterworks and wastewater works operators. The training course content must be consistent with those objectives.*

*5. Course completion requirements. For successful completion of a training program, participants must attend 90% or more of the class contact time and must demonstrate their learning through written examinations, completion of a project, self-assessment, oral examination, or other assessment technique.*

*B. The board shall consider the following information, to be submitted on forms provided by the board, at least 45 days prior to the scheduled training activity:*

#### *1. Course information.*

- a. Course title*
- b. Planned audience*
- c. Name of sponsor*
- d. Name, address, phone number of contact person*
- e. Scheduled presentation dates*
- f. Detailed course schedule, hour-by-hour*
- g. List of planned breaks*
- h. Scheduled presentation location*
- i. Relevancy of course to waterworks or wastewater works operator licensing*

#### *2. Instructor qualifications.*

- a. Name of instructor*
- b. Title, employer*
- c. Summary of qualifications to teach this course*

#### *3. Training materials.*

- a. Course objectives. A listing of the course objectives stated in the terms of the skills, knowledge, or attitude the participant will be able to demonstrate as a result of the training.*
- b. Course outline. A detailed outline showing the planned activities that will occur during the*

# Proposed Regulations

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training program, including major topics, planned presentation sequence, laboratory and field activities, audio-visual presentation, and other major activities.

c. *Course reference materials.* A list of the name, publisher and publication date for commercially available publications; for reference materials developed by the course sponsor or available exclusively through the course, a copy of the reference.

d. *Audio-visual support materials.* A listing of any commercially available audio-visual support material that will be used in the program; a brief description of any sponsor or instructor generated audio-visual material that will be used.

e. *Handouts.* Identification of all commercially available handout materials that will be used; copies of all other planned handouts.

4. *Determination of successful completion.* A description of the means that will be used to determine the successful completion of the training program by individual attendees, such as examinations, projects, personal evaluations by the instructor, or other recognized evaluation techniques.

C. *Substitution of training for experience will be approved by the board only for applicants whose names appear on a roster of those participants who successfully completed the course, including their names and social security numbers, submitted to the board by the sponsor, and who submit a copy of an appropriate certificate identifying the subject matter of the course and the CEU value, provided to the participant by the sponsor.*

D. *Recurring training programs.* If there are plans to present the same course of instruction routinely at multiple locations with only minor modifications and changes, the board may approve the overall program rather than individual presentations if so requested by the sponsor.

1. *The board shall consider all of the information listed above except those items related to specific offerings of the course.*

2. *Board approval may be granted for a specific period of time or for an indefinite period.*

3. *Board approval will apply only to those specific offerings appearing on listings provided to the board prior to conducting the training. The listing shall contain for each offering the dates, locations, and instructors.*

4. *To maintain approval of the program, changes made to the program since its approval must be submitted.*

5. *Substitution of training for experience will be approved by the board only for applicants whose names appear on a roster of those who have successfully completed the course, including their names and social security numbers, submitted to the board by the sponsor following the course offering, and who submit a copy of an appropriate certificate identifying the subject matter of the course and the CEU value, provided to the participant by the sponsor.*



Commonwealth of Virginia  
**Board for Waterworks and Wastewater Works Operators**

Department of Commerce  
 P.O. Box 11066  
 Richmond, Virginia 23230-1066  
 Telephone: 804/367-8554

**Application for Licensure as a Waterworks or Wastewater Works Operator**

**INSTRUCTIONS:**

Read the regulations of the Board thoroughly before filling out this application.  
 Make check or money order payable to *Treasurer of Virginia*.  
 Submit application with fee of \$65.00 to the address shown above. Incomplete applications will be returned.

**A. General Information**

Applying for (circle one):  
 Waterworks Operator I II III IV V  
 Wastewater Works Operator I II III IV  
 Applying for (check one):  Examination  Reciprocity

**B. Name and Addresses**

Name \_\_\_\_\_  
 Home Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_ Phone \_\_\_\_\_  
 Present Employer \_\_\_\_\_  
 Employer's Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_ Phone \_\_\_\_\_  
 Which address should we use for mailing purposes?  Home  Employer

**C. Identification**

Social Security Number \_\_\_\_\_ (Required for admission to examination)  
 Date of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_

**Operators' licenses presently held:**

| Category (Water/Wastewater) | Class | Certificate Number | State of issue | OFFICE USE |
|-----------------------------|-------|--------------------|----------------|------------|
|                             |       |                    |                |            |
|                             |       |                    |                |            |

**D. Education** Attach copies of diploma, certificate or transcript.

High School, Secondary School, or GED program:  
 Name of school or program \_\_\_\_\_  
 City and state \_\_\_\_\_  
 Date of graduation/completion \_\_\_\_\_

Bachelor's degree program\*:  
 Name of institution \_\_\_\_\_  
 City and state \_\_\_\_\_  
 Major subject \_\_\_\_\_ Degree \_\_\_\_\_ Date \_\_\_\_\_

\* See regulations for bachelor's degree programs that are accepted for basic education requirements

E. Experience

INSTRUCTIONS FOR LISTING EXPERIENCE: Begin with your present or most recent employer. Account for all relevant experience. Attach additional pages if necessary. Describe your actual job duties in your own words, including the degree of your responsibilities at the facility and the number of hours you were in attendance at the facility. Note that all work as an operator-in-training must be certified by an operator holding a license equal to or greater than that of the facility and in the same category; ALL experience must be certified by a supervisor.

Current Employer

Employer: \_\_\_\_\_
Address: \_\_\_\_\_
Name of facility: \_\_\_\_\_
[ ] Waterworks [ ] Wastewater Works Class: \_\_\_\_\_
Individual certifying experience: \_\_\_\_\_
Signature Title Lic. Class Lic. No.
Employment period: From: \_\_\_/\_\_\_/\_\_\_ To: \_\_\_/\_\_\_/\_\_\_ Position title: \_\_\_\_\_
Was this full-time? [ ] Yes [ ] No - If not full-time, number of hours/week: \_\_\_\_\_
Duties: \_\_\_\_\_

Employer: \_\_\_\_\_
Address: \_\_\_\_\_
Name of facility: \_\_\_\_\_
[ ] Waterworks [ ] Wastewater Works Class: \_\_\_\_\_
Individual certifying experience: \_\_\_\_\_
Signature Title Lic. Class Lic. No.
Employment period: From: \_\_\_/\_\_\_/\_\_\_ To: \_\_\_/\_\_\_/\_\_\_ Position title: \_\_\_\_\_
Was this full-time? [ ] Yes [ ] No - If not full-time, number of hours/week: \_\_\_\_\_
Duties: \_\_\_\_\_

**F. Substitutions**

(1) Operator training courses, seminars, workshops and specialized training proposed for experience substitution (See § 2.3C). Attach copies of certificates for all training.

| Course Title/Sponsor | Date(s) of Attendance | CEUs | OFFICE USE |
|----------------------|-----------------------|------|------------|
|                      |                       |      |            |
|                      |                       |      |            |
|                      |                       |      |            |
|                      |                       |      |            |
|                      |                       |      |            |
|                      |                       |      |            |
|                      |                       |      |            |

(2) Formal education proposed for substitution: post-secondary courses in science, engineering, engineering technology, waterworks or wastewater works operation, public health (See § 2.3C). Attach copies of certificates or transcripts for all courses.

| College or University | Course title and brief description | Dates of Attendance | Sem. Hours | OFFICE USE |
|-----------------------|------------------------------------|---------------------|------------|------------|
|                       |                                    |                     |            |            |
|                       |                                    |                     |            |            |
|                       |                                    |                     |            |            |

(3) Experience in the other category proposed for substitution (See § 2.3C). All experience must be certified by a licensed operator.

| Dates (Mo/Yr)            | Name and address of employer, your job title, description of your job duties | Plant Class | Signature, title and operator license no. of person certifying exp. | OFFICE USE |
|--------------------------|--|-------------|---|------------|
| From: _____<br>To: _____ |  |             |   |            |
| From: _____<br>To: _____ |  |             |   |            |

**G. Facility description**

Provide a brief description in your own words of the facility at which you now work. Include the flow capacity and/or service population and classification. Describe the treatment processes and equipment used at the facility. This sheet must be signed by the applicant and by the applicant's immediate supervisor.

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Signature of applicant: \_\_\_\_\_

Approved and certified by: \_\_\_\_\_  
*Immediate Supervisor*

Supervisor's Operator License Category, Class, and Number: \_\_\_\_\_

**H. Affidavit**

STATE OF \_\_\_\_\_

CITY/COUNTY OF \_\_\_\_\_

The undersigned being duly sworn says that he/she is the person who executed this application, that the statements herein contained are true, that he/she has not withheld or suppressed any information that might affect this applications, and that he/she has read and understands this affidavit.

Signature of applicant: \_\_\_\_\_

Signature of notary public: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

My commission expires: \_\_\_\_\_

# Proposed Regulations

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## STATE WATER CONTROL BOARD

**Title of Regulation:** VR 680-16-05. York River Basin Water Quality Management Plan.

**Statutory Authority:** §§ 62.1-44.15(3a) and 62.1-44.15(13) of the Code of Virginia.

**Public Hearing Date:** September 30, 1991 - 7 p.m.  
(See Calendar of Events section for additional information)

**Summary:**

*Water quality management plans (WQMP) serve as a regulatory guide for the State Water Control Board in the implementation of mandated water quality goals. Two main components of the plans are the stream segment classifications and the establishment of total maximum daily loads which contain waste load allocations for segments classified as water quality limiting.*

*The purpose of the proposal is to amend the York River Basin Water Quality Management Plan (Plan) to remove the waste load allocations in stream segment 8-12 for American Oil, York and James City SD #1, and York Regional STP. The three facilities discharge to an effluent limiting stream segment, which is not required by federal or state laws or regulations to have waste load allocations.*

VR 680-16-05. York River Basin Water Quality Management Plan.

TABLE 3  
WASTE LOAD ALLOCATIONS (IN LBS PER DAY)

| POINT SOURCE                         | 1977 WASTE LOAD <sup>2</sup> |                   | MAXIMUM <sup>7</sup> DAILY LOAD |                     | RECOMMENDED ALLOCATION |                     |                 | RAW WASTE LOAD , AT 1995 |                  | REQUIRED & REMOVAL EFFICIENCY 1995 |               |
|--------------------------------------|------------------------------|-------------------|---------------------------------|---------------------|------------------------|---------------------|-----------------|--------------------------|------------------|------------------------------------|---------------|
|                                      | CBOD <sub>5</sub>            | UBOD <sup>1</sup> | CBOD <sub>5</sub>               | UBOD                | CBOD <sub>5</sub>      | UBOD                | PERCENT RESERVE | CBOD <sub>5</sub>        | UBOD             | CBOD <sub>5</sub>                  | UBOD          |
| Cordonsville                         | 145                          | 398               | 150                             | 412                 | 150                    | 412                 | 0               | 1950                     | 2730             | 92                                 | 85            |
| Louisa-Mineral                       | 50                           | 108               | 55                              | 118                 | 55                     | 118                 | 0               | 850                      | 1150             | 93                                 | 90            |
| Doswell                              | 52                           | 110               | 862                             | 1407                | 690                    | 1125                | 20              | 1080                     | 1444             | 85 <sup>(b)</sup>                  | 71            |
| Thornburg                            | 63                           | 150               | 68                              | 162                 | 68                     | 162                 | 0               | 1240                     | 1690             | 94                                 | 90            |
| Bowling Green                        | 27                           | 64                | 29                              | 68                  | 29                     | 68                  | 0               | 680                      | 926              | 96                                 | 93            |
| Ashland                              | 160                          | 303               | 235                             | 553                 | 152                    | 447                 | 23              | 2250                     | 3925             | 92                                 | 88            |
| Manover (Regional STP)               | 170                          | 437               | 280                             | 820                 | 280                    | 820                 | 0               | 5730                     | 7930             | 96                                 | 90            |
| Shesapeake Corp.                     | 6400                         | 8000              | 10,445 <sup>5</sup>             | 15,000 <sup>5</sup> | 10,445 <sup>5</sup>    | 15,000 <sup>5</sup> | N/A             | 51700                    | 64630            | 90                                 | 90            |
| Vest Point                           | 105                          | 380               | 281 <sup>3</sup>                | 1020                | 225                    | 814                 | 20              | 1000                     | 1660             | 85 <sup>b</sup>                    | 66            |
| <del>York &amp; Jones City STP</del> | <del>243</del>               | <del>641</del>    | <del>2430<sup>3</sup></del>     | <del>7843</del>     | <del>2100</del>        | <del>6270</del>     | <del>20</del>   | <del>4480</del>          | <del>6780</del>  | <del>85<sup>a</sup></del>          | <del>73</del> |
| <del>American Oil</del>              | <del>406</del>               | <del>1360</del>   | <del>73<sup>5</sup></del>       | <del>245</del>      | <del>73</del>          | <del>245</del>      | <del>N/A</del>  | <del>4620</del>          | <del>6630</del>  | <del>96</del>                      | <del>98</del> |
| <del>York Regional STP</del>         | <del>2280</del>              | <del>9230</del>   | <del>8000<sup>3</sup></del>     | <del>40900</del>    | <del>8010</del>        | <del>32700</del>    | <del>20</del>   | <del>26900</del>         | <del>44900</del> | <del>85<sup>b</sup></del>          | <del>62</del> |

<sup>1</sup>UBOD is Ultimate Biochemical Oxygen Demand. Its concentration is derived by the following:  $800\text{g}/0.80 + 4.5 (\text{TKX}) = (\text{UBOD})$   
NOTE: The amount of TKX utilized depends on the location in the basin.

<sup>2</sup>Projected for 1977 based on population projections.

<sup>3</sup>Recommended allocation based on 3PCYCA effluent guidelines applied to raw waste loads at 2020.

<sup>4</sup>Minimum removal efficiency.

<sup>5</sup>Allocation based on BATEA Guidelines at 2020.

<sup>6</sup>Based on assumed influent characteristics.

<sup>7</sup>ASSIMILATIVE CAPACITY

Source: Roy F. Weston, Inc.



# 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.

## 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 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

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

**Effective Date:** July 18, 1991.

**NOTE:** Documents and forms referred to herein as exhibits have not been adopted by the authority as a part of the Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income but are attached thereto for reference and informational purposes. Accordingly, such documents and forms have not been included in the amendments to the foregoing Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income. Copies of such documents and forms are available upon request at the office of the authority.

### Summary:

The amendments to the authority's rules and regulations applicable to its single family mortgage loan program (i) will provide for implementation of the Farmers Home Administration Guarantee and Interest Assistance programs, (ii) allow certain applicants for mortgage loans to borrow funds from their employers for downpayment and closing costs assistance and clarify the extent to which downpayment funds may be borrowed by other applicants, (iii) require certain documents to be included in application and closing packages to conform the authority's requirements to recent changes in federal law, (iv) clarify requirements for assumptions to include all requirements of state and federal law, and (v) make certain typographical and stylistic revisions.

VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

## PART I. GENERAL.

### § 1.1. General.

The following rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to persons and families of low and moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family housing units.

In order to be considered eligible for a mortgage loan hereunder, a "person" or "family" (as defined in the authority's rules and regulations) must have a "gross family income" (as determined in accordance with the authority's rules and regulations) which does not exceed the applicable income limitation set forth in Part II hereof. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit set forth in Part II hereof. The term "sales price," with respect to a mortgage loan for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such dwelling unit will not be available for occupancy. In addition, each mortgage loan must satisfy all requirements of federal law applicable to loans financed with the proceeds of tax-exempt bonds as set forth in Part II hereof.

Mortgage loans may be made or financed 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 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 processing requirements and are not intended to include

All actions involved or required in the originating and administration of mortgage loans under the authority's single family housing 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 and servicing agents.

### A. Approval/definitions.

The originating of mortgage loans and the processing of applications for the making or financing thereof in accordance herewith shall be performed through commercial banks, savings and loan associations and private mortgage bankers approved as originating agents ("originating agents") of the authority. The servicing of mortgage loans shall be performed through commercial banks, savings and loan associations and private mortgage bankers approved as servicing agents ("servicing agents") of the authority.

To be initially approved as an originating agent or as a servicing agent, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have a net worth equal to or in excess of \$250,000 or such other amount as the executive director shall from time to time deem appropriate;
3. Have a staff with demonstrated ability and experience in mortgage loan origination and processing (in the case of an originating agent applicant) or servicing (in the case of a servicing agent applicant); and
4. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each originating agent approved by the authority 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 and processing of mortgage loans hereunder. Each servicing agent approved by the authority shall enter into a servicing agreement with the authority containing such terms and conditions as the executive director shall require with respect to the servicing of mortgage loans.

An applicant may be approved as both an originating agent and a servicing agent ("originating and servicing agent"). Each originating and servicing agent shall enter into an originating and servicing agreement ("originating and servicing agreement") with the authority containing such terms and conditions as the executive director shall require with respect to the originating and servicing of

mortgage loans hereunder.

For the purposes of these rules and regulations, the term "originating agent" shall hereinafter be deemed to include the term "originating and servicing agent," unless otherwise noted. Similarly, the term "originating agreement" shall hereinafter be deemed to include the term "originating and servicing agreement," unless otherwise noted. The term "servicing agent" shall continue to mean an agent authorized only to service mortgage loans. The term "servicing agreement" shall continue to mean only the agreement between the authority and a servicing agent.

Originating agents and servicing agents shall maintain adequate books and records with respect to mortgage loans which they originate and process or service, 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 and servicing agents for originating and processing or for servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the originating agreements and servicing agreements applicable to such originating agents and servicing agents.

### B. Allocation of funds.

The executive director shall allocate funds for the making or financing of 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 mortgage loan applicants on a first-come, first-serve or other basis, (ii) to originating agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or or rehabilitated by them and to be sold 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 mortgage loans;
2. The need and demand for the financing of 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;
4. The capability, history and experience of any originating agents, state and local governmental agencies and instrumentalities, builders, or other

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persons and entities (other than mortgage loan applicants) who are to receive an allocation; and

## 5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;
2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and
3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

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.

## C. Originating guide and servicing guide.

The originating guide attached hereto as Part II is incorporated into and made a part of these rules and regulations. All exhibits and other documents referenced in the originating guide are not included in, and shall not be deemed to be a part of, these rules and regulations. The executive director is authorized to prepare and from time to time revise a servicing guide which shall set forth the accounting and other procedures to be followed by all originating agents and servicing agents responsible for the servicing of mortgage loans under the applicable originating agreements and servicing agreements. Copies of the servicing guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the originating guide and the servicing guide.

## D. Making and purchase of new mortgage loans.

The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its originating agents and (ii) agree to purchase individual mortgage loans from its originating agents or servicing agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the applicable originating agreement or servicing agreement, the originating guide, the servicing guide, the Act and these rules and regulations.

If the applicant and the application for a mortgage loan meet the requirements of the Act and these rules and regulations, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval of ratification thereof by the board. Such mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

## E. Purchase of existing mortgage loans.

The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's originating agents and servicing agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the board. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to originating agents and servicing agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select

those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the selected originating agents and servicing agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the applicable originating agreement or servicing agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the Act and the authority's rules and regulations.

#### F. Delegated underwriting.

The executive director may, in his discretion, delegate to one or more originating agents the responsibility for issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which originating agents may qualify for such delegation. If such delegation has been made, the originating agents shall submit all required documentation to the authority after closing of each mortgage loan. If the executive director determines that a mortgage loan does not comply with the processing guide, the applicable originating agreement, the Act or these rules and regulations, he may require the originating agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

## PART II. VIRGINIA HOUSING DEVELOPMENT AUTHORITY PROCESSING GUIDE.

### Article I. Eligibility Requirements.

#### § 2.1. Eligible persons and families.

##### A. Person.

A one-person household is eligible.

##### B. Family.

A single family loan can be made to more than one person only if all such persons to whom the loan is made are related by blood, marriage or adoption and are living together in the dwelling as a single nonprofit housekeeping

unit.

#### C. Citizenship.

Each applicant for an authority 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).

§ 2.2. Compliance with certain requirements of the Internal Revenue Code of 1986, as amended (hereinafter "the tax code").

The tax code imposes certain requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with these federal requirements and restrictions, the authority has established certain procedures which must be performed by the originating agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The originating agent will certify to the performance of these procedures and evaluation of a borrower's eligibility by completing and signing the "Originating Agent's Checklist for Certain Requirements of the Tax Code" (Exhibit A(1)) prior to the authority's approval of each loan. No loan will be approved by the authority unless all of the federal eligibility requirements are met as well as the usual requirements of the authority set forth in other parts of this guide.

#### § 2.2.1. Eligible borrowers.

##### A. General.

In order to be considered an eligible borrower for an authority mortgage loan, an applicant must, among other things, meet all of the following federal criteria:

The applicant:

1. May not have had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan documents. (See § 2.2.1.B Three-year requirement);

2. Must agree to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as defined in § 2.17) after the date of the closing of the mortgage loan. (See § 2.2.1.C Principal residence requirement);

3. Must not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See § 2.2.1.D New mortgage requirement);

4. Must have contracted to purchase an eligible

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dwelling. (See § 2.2.2 Eligible dwellings);

5. Must execute an affidavit of borrower (Exhibit E) at the time of loan application;

6. Must not receive income in an amount in excess of the applicable federal income limit imposed by the tax code (See § 2.5 Income requirements);

7. Must agree not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan unless certain requirements are met. (See § 2.10 Loan assumptions) ; and

8. Must be over the age of 18 years or have been declared emancipated by order or decree of a court having jurisdiction.

## B. Three-year requirement.

An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan documents, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the affidavit of borrower that at no time during the three years preceding the execution of the mortgage loan documents has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see § 2.3 Targeted areas); however, even if the residence is located in a "targeted area," the tax returns for the most recent taxable year (or the letter described in 3 below) must be obtained for the purpose of determining compliance with other requirements.

1. Definition of present ownership interest. "Present ownership interest" includes:

a. A fee simple interest,

b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,

c. The interest of a tenant shareholder in a cooperative,

d. A life estate,

e. A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time, and

f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a present ownership interest include:

a. A remainder interest,

b. An ordinary lease with or without an option to purchase,

c. A mere expectancy to inherit an interest in a principal residence,

d. The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate, and

e. An interest in other than a principal residence during the previous three years.

2. Persons covered. This requirement applies to any person who will execute the mortgage document or note and will have a present ownership interest (as defined above) in the eligible dwelling.

3. Prior tax returns. To verify that the eligible borrower meets the three-year requirement, the originating agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three tax years immediately preceding execution of the mortgage documents (or certified copies of the returns) or a copy of a letter from the Internal Revenue Service stating that its Form 1040A or 1040EZ was filed by the eligible borrower for any of the three most recent tax years for which copies of such returns are not obtained. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return or letter from the Internal Revenue Service for such year or years is waived.

The originating agent shall examine the tax returns particularly for any evidence that the eligible borrower may have claimed deductions for property taxes or for interest on indebtedness with respect to real property constituting his principal residence.

4. Review by originating agent. The originating agent must, with due diligence, verify the representations in the affidavit of borrower (Exhibit E) regarding the applicant's prior residency by reviewing any information including the credit report and the tax returns furnished by the eligible borrower for consistency, and certify to the authority that on the basis of its review, it is of the opinion that each borrower has not had present ownership interest in a principal residence at any time during the three-year period prior to the anticipated date of the loan closing.

## C. Principal residence requirement.

1. General. An eligible borrower must intend at the time of closing to occupy the eligible dwelling as

principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of the eligible borrower within 60 days (90 days in the case of a purchase and rehabilitation loan) of the mortgage loan closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from the authority. An eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan on the affidavit of borrower (to be updated by the verification and update of information form) and as part of the attachment to the deed of trust.

2. Definition of principal residence. A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where any portion of the total living area is to be used primarily in a trade or business.

3. Land not to be used to produce income. The land financed by the mortgage loan may not provide, other than incidentally, a source of income to the eligible borrower. The eligible borrower must indicate on the affidavit of borrower that, among other things:

a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);

b. He does not intend to farm any portion (other than as a garden for personal use) of the land financed by the mortgage loan; and

c. He does not intend to subdivide the property.

4. Lot size. Only such land as is reasonably necessary to maintain the basic livability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres, even in rural areas. However, exceptions may be made to permit lots larger than two acres, but in no event in excess of five acres : (i) if the land is owned free and clear and is not being financed by the loan, (ii) if difficulty is encountered locating a well or septic field, the lot may include the additional acreage needed , and (iii) local city and county zoning ordinances which require more acreage will be taken into consideration.

5. Review by originating agent. The affidavit of borrower (Exhibit E) must be reviewed by the originating agent for consistency with the eligible borrower's federal income tax returns and the credit report in order to support an opinion that the eligible borrower is not engaged in any employment activity or trade or business which has been conducted in his principal residence. Also, the originating agent shall review the appraiser report (Exhibit H) of an authority approved appraiser and the required photographs to determine based on the location and the structural design and other characteristics of the dwelling that the residence is suitable for use as a permanent residence and not for use primarily in a trade or business or for recreational purposes. Based on such review, the originating agent shall certify to the authority its findings and certain opinions in the checklist for certain requirements of the tax code (Exhibit A(1)) at the time the loan application is submitted to the authority for approval.

6. Post-closing procedures. The originating agent shall establish procedures to (i) review correspondence, checks and other documents received from the borrower during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the borrower are the same and (ii) notify the authority if such addresses are not the same. Subject to the authority's approval, the originating agent may establish different procedures to verify compliance with this requirement.

#### D. New mortgage requirement.

Mortgage loans may be made only to persons who did not have a mortgage (whether or not paid off) on the eligible dwelling at any time prior to the execution of the mortgage. Mortgage loan proceeds may not be used to acquire or replace an existing mortgage or debt for which the eligible borrower is liable or which was incurred on behalf of the eligible borrower, except in the case of construction period loans, bridge loans or similar temporary financing which has a term of 24 months or less.

1. Definition of mortgage. For purposes of applying the new mortgage requirement, a mortgage includes deeds of trust, conditional sales contracts (i.e. generally a sales contract pursuant to which regular installments are paid and are applied to the sales price), pledges, agreements to hold title in escrow, a lease with an option to purchase which is treated as an installment sale for federal income tax purposes and any other form of owner-financing. Conditional land sale contracts shall be considered as existing loans or mortgages for purposes of this requirement.

2. Temporary financing. In the case of a mortgage loan (having a term of 24 months or less) made to refinance a loan for the construction of an eligible

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dwelling, the authority shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. Review by originating agent. Prior to closing the mortgage loan, the originating agent must examine the affidavit of borrower (Exhibit E), the affidavit of seller (Exhibit F), and related submissions, including (i) the eligible borrower's federal income tax returns for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new mortgage requirements. Upon such review, the originating agent shall certify to the authority that the agent is of the opinion that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of the borrower and that the borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

## E. Multiple loans.

Any eligible borrower may not have more than one outstanding authority mortgage loan.

## § 2.2.2. Eligible dwellings.

### A. In general.

In order to qualify as an eligible dwelling for which an authority loan may be made, the residence must:

1. Be located in the Commonwealth;
2. Be a one-family detached residence, a townhouse or one unit of an authority approved condominium; and
3. Satisfy the acquisition cost requirements set forth below.

### B. Acquisition cost requirements.

1. General rule. The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases for new loans such federal limits equal or exceed the authority's sales price limits shown in § 2.3. Therefore, for new loans the residence is an eligible dwelling if the acquisition cost is not greater than the authority's sales price limit. In the event that the acquisition cost exceeds the authority's sales price limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling.

2. Acquisition cost requirements for assumptions. To determine if the acquisition cost is at or below the federal limits for assumptions, the originating agent or, if applicable, the servicing agent must in all cases contact the authority see § 2.10 below.

3. Definition of acquisition cost. Acquisition cost means the cost of acquiring the eligible dwelling from the seller as a completed residence.

### a. Acquisition cost includes:

(1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

(2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost of completing construction or rehabilitation is to be financed with the mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost. (See Acquisition Cost Worksheet, Exhibit G, Item 4 and Appraiser Report, Exhibit H).

(3) The cost of land on which the eligible dwelling is located and which has been owned by the eligible borrower for a period no longer than two years prior to the construction of the structure comprising the eligible dwelling.

### b. Acquisition cost does not include:

(1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal expenses, points which are paid by the eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be treated as part of the acquisition cost.

(2) The imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence.



4. Acquisition cost worksheet (Exhibit G) and Appraiser Report (Exhibit H). The originating agent is required to obtain from each eligible borrower a completed acquisition cost worksheet which shall specify in detail the basis for the purchase price of the eligible dwelling, calculated in accordance with this subsection B. The originating agent shall assist the eligible borrower in the correct completion of the worksheet. The originating agent must also obtain from the appraiser a completed appraiser's report which may also be relied upon in completing the acquisition cost worksheet. The acquisition cost worksheet of the eligible borrower shall constitute part of the affidavit of borrower required to be submitted with the loan submission. The affidavit of seller shall also certify as to the acquisition cost of the eligible dwelling on the worksheet.

5. Review by originating agent. The originating agent shall for each new loan determine whether the acquisition cost of the eligible dwelling exceeds the authority's applicable sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling for a new loan. (For an assumption, the originating agent or, if applicable, the servicing agent must contact the authority for this determination in all cases - see section 2.10 below). Also, as part of its review, the originating agent must review the acquisition cost worksheet submitted by each mortgage loan applicant, and the appraiser report, and must certify to the authority that it is of the opinion that the acquisition cost of the eligible dwelling has been calculated in accordance with this subsection B. In addition, the originating agent must compare the information contained in the acquisition cost worksheet with the information contained in the affidavit of seller and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

6. Independent appraisal. The authority reserves the right to obtain an independent appraisal in order to establish fair market value and to determine whether a dwelling is eligible for the mortgage loan requested.

## § 2.2.3. Targeted areas.

### A. In general.

In accordance with the tax code, the authority will make a portion of the proceeds of an issue of its bonds available for financing eligible dwellings located in targeted areas for at least one year following the issuance of a series of bonds. The authority will exercise due diligence in making mortgage loans in targeted areas by advising originating agents and certain localities of the availability of such funds in targeted areas and by advising potential eligible borrowers of the availability of such funds through advertising and/or news releases. The

amount, if any, allocated to an originating agent exclusively for targeted areas will be specified in a forward commitment agreement between the originating agent and the authority.

### B. Eligibility.

Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in this § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement described in § 2.2.1.B. Notwithstanding this exception, the applicant must still submit certain federal income tax records. However, they will be used to verify income and to verify that previously owned residences have not been used in a trade or business (and not to verify nonhomeownership), and only those records for the most recent year preceding execution of the mortgage documents (rather than the three most recent years) are required. See that section for the specific type of records to be submitted.

#### 1. Definition of targeted areas.

a. A targeted area is an area which is a qualified census tract, as described in b below, or an area of chronic economic distress, as described in c below.

b. A qualified census tract is a census tract in the Commonwealth in which 70% or more of the families have an income of 80% or less of the state-wide median family income based on the most recent "safe harbor" statistics published by the U.S. Treasury.

c. An area of chronic economic distress is an area designated as such by the Commonwealth and approved by the Secretaries of Housing and Urban Development and the Treasury under criteria specified in the tax code. PDS agents will be informed by the authority as to the location of areas so designated.

## § 2.3. Sales price limits.

### A. For reservations made on or after March 1, 1989.

The authority's maximum allowable sales price for new loans for which reservations are taken by the authority on or after March 1, 1989, shall be as follows:

#### MAXIMUM ALLOWABLE SALES PRICES

Applicable to All New Loans for which Reservations are Taken by the Authority On or after March 1, 1989

| AREA   | NEW CONSTRUCTION/<br>EXISTING/<br>SUBSTANTIAL<br>REHABILITATION |
|--|---|
| Washington, DC-MD-VA MSA<br>(Virginia Portion) | \$120,000   |



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1/

Norfolk-Virginia Beach-  
Newport News MSA \$ 81,500

2/

Richmond-Petersburg MSA \$ 79,500

3/

Charlottesville MSA \$ 77,000

4/

Fauquier County \$ 77,000

Spotsylvania and  
King George Counties \$ 75,500

Balance of State \$ 75,500

1/ Includes: Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City, Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

3/ Includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

4/ Includes: Albemarle County, Charlottesville City, Fluvanna County, Greene County.

## B. Effect of solar grant.

The applicable maximum allowable sales price for new construction shall be increased by the amount of any grant to be received by a mortgagor under the authority's Solar Home Grant Program in connection with the acquisition of a residence.

## § 2.4. Net worth.

To be eligible for authority financing, an applicant cannot have a net worth exceeding \$20,000 plus an additional \$1,000 of net worth for every \$5,000 of income over \$20,000. (The value of furniture and household goods shall not be included in determining net worth.) In addition, the portion of the applicant's liquid assets which are used to make the down payment and to pay closing costs, up to a maximum of 25% of the sale price, will not be included in the net worth calculation.

Any income producing assets needed as a source of income in order to meet the minimum income requirements for an authority loan will not be included in the applicant's net worth for the purpose of determining

whether this net worth limitation has been violated.

## § 2.5. Income requirements.

### A. Maximum gross income.

As provided in § 2.2.1.A.6 the gross family income of an applicant for an authority mortgage loan may not exceed the applicable income limitation imposed by the U.S. Department of the Treasury. Because the income limits of the authority imposed by this subsection A apply to all loans to which such federal limits apply and are in all cases below such federal limits, the requirements of § 2.2.1.A.6 are automatically met if an applicant's gross family income does not exceed the applicable limits set forth in this subsection.

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 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 reservations made on or after March 1, 1989, the maximum gross family incomes for eligible borrowers shall be determined or set forth as follows:

### (1) MAXIMUM GROSS FAMILY INCOME

Applicable only to loans for which reservations are taken by the authority on or after March 1, 1989, *except loans to be guaranteed by the Farmers Home Administration ("FmHA")*.

The maximum gross family income for each borrower shall be a percentage (based on family size) of the applicable median family income (as defined in Section 143(f)(4) of the Internal Revenue Code of 1986, as amended (the "Median Family Income"), with respect to the residence of such borrower, which percentages shall be as follows:

| Family Size       | Percentage of applicable Median Family Income (regardless of whether residence is new construction, existing or substantially rehabilitated) |
|-------------------|--|
| 1 person          | 70%  |
| 2 persons         | 85%  |
| 3 or more persons | 100%   |

The authority shall from time to time inform if

originating agents and servicing 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) FmHA MAXIMUM GROSS FAMILY INCOME

*Applicable only to loans to be guaranteed by FmHA.*

*The maximum gross family income for each borrower shall be the lesser of the amount determined in accordance with [ § ] 2.5 A (1) or FmHA income limits in effect at the time of the application.*

B. Minimum income (not applicable to applicants for loans to be insured or guaranteed by the Federal Housing Administration or the Veterans Administration or FmHA (hereinafter referred to as "FHA or VA or FmHA loans").

An applicant satisfies the authority's minimum income requirement for financing if the monthly principal and interest, tax, insurance ("PITI") and other additional monthly fees such as condominium assessments (60% of the monthly condominium assessment shall be added to the PITI figure), townhouse assessments, etc. do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly installment loans with more than six months duration do not exceed 40% of monthly gross income (see Exhibit B). However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements.

## § 2.6. Calculation of maximum loan amount.

Single family detached residence and townhouse (fee simple ownership) Maximum of 95% (or, in the case of a FHA or VA or FmHA loan, such other percentage as may be permitted by FHA or VA or FmHA ) of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

Condominiums - Maximum of 95% (or, in the case of a FHA or VA or FmHA loan, such other percentage as may be permitted by FHA or VA or FmHA ) of the lesser of the sales price or appraised value, except as may be otherwise approved by the authority.

For the purpose of the above calculations, the value of personal property to be conveyed with the residence shall be deducted from the sales price. (See Exhibit R for examples of personal property.) The value of personal property included in the appraisal shall not be deducted from the appraised value. (See Appraiser Report, Exhibit H)

In the case of a FHA or VA or FmHA loan, the FHA or VA or FmHA insurance fees or guarantee fees charged in connection with such loan (and, if a FHA loan,

the FHA permitted closing costs as well) may be included in the calculation of the maximum loan amount in accordance with applicable FHA and VA or FmHA requirements; provided, however, that in no event shall this revised maximum loan amount which includes such fees and closing costs be permitted to exceed the authority's maximum allowable sales price limits set forth herein.

## § 2.7. Mortgage insurance requirements.

Unless the loan is an FHA or VA or FmHA loan, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on each loan the amount of which exceeds 80% of the lesser of sales price or appraised value of the property to be financed. Such insurance shall be issued by a company acceptable to the authority. The originating agent is required to escrow for annual payment of mortgage insurance. If the authority requires FHA or VA or FmHA insurance or guarantee, the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the originating agent's name and purchased by the authority once the FHA Certificate of Insurance or VA Guaranty or FmHA Guarantee has been obtained. In the event that the authority purchases an FHA or VA or FmHA loan, the originating agent must enter into a purchase and sale agreement on such form as shall be provided by the authority. For assumptions of conventional loans (i.e., loans other than FHA and VA or FmHA loans), full private mortgage insurance as described above is required unless waived by the authority.

## § 2.8. Underwriting.

### A. Conventional loans.

The following requirements must be met in order to satisfy the authority's underwriting requirements. However, additional or more stringent requirements may be imposed by private mortgage insurance companies with respect to those loans on which private mortgage insurance is required.

#### 1. Employment and income.

a. Length of employment. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by the authority if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

b. Self-employed applicants. Note: Under the tax code, the residence may not be expected to be used in trade or business. (See § 2.2.1.C Principal residence requirement.) Any self-employed applicant must have a minimum of two years of

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self-employment with the same company and in the same line of work. In addition, the following information is required at the time of application:

- (1) Federal income tax returns for the two most recent tax years.
- (2) Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

c. Income derived from sources other than primary employment.

(1) Alimony and child support. A copy of the legal document and sufficient proof must be submitted to the authority verifying that alimony and child support are court ordered and are being received. Child support payments for children 15 years or older are not accepted as income in qualifying an applicant for a loan.

(2) Social security and other retirement benefits. Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA. Educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant for a loan.

(3) Part-time employment. Part-time employment must be continuous for a minimum of six months. Employment with different employers is acceptable so long as it has been uninterrupted for a minimum of six months. Part-time employment as used in this section means employment in addition to full-time employment.

Part-time employment as the primary employment will also be required to be continuous for six months.

(4) Overtime, commission and bonus. Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

## 2. Credit.

a. Credit experience. The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be

rejected. Satisfactory credit references are considered to be one of the most important requirements in order to obtain an authority loan.

b. Bankruptcies. An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years and has a poor credit history. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy and poor credit history. The authority has complete discretion to decline a loan when a bankruptcy and poor credit is involved.

c. Judgments. An applicant is required to submit a written explanation for all judgments. Judgments must be paid before an applicant will be considered for an authority loan.

3. Appraisals. The authority reserves the right to obtain an independent appraisal in order to establish the fair market value of the property and to determine whether the dwelling is eligible for the mortgage loan requested.

## B. FHA loans only.

1. In general. The authority will normally accept FHA underwriting requirements and property standards for FHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Mortgage insurance premium. Applicant's mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed provided that the final loan amount does not exceed the authority's maximum allowable sales price. In addition, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.

3. Closing fees. The FHA allowable closing fees may be included in the FHA acquisition cost and may be financed provided the final loan amount does not exceed the authority's maximum allowable sales price.

4. Appraisals. FHA appraisals are acceptable. VA certificates of reasonable value (CRV's) are acceptable if acceptable to FHA.

## C. VA loans only.

1. In general. The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, most of the authority's basic eligibility requirements (including those described in §§ 2.1 through 2.5 hereof) remain in effect due to treasury restrictions or authority policy.

2. VA funding fee. 1.0% funding fee can be included in loan amount provided final loan amount does not exceed the authority's maximum allowable sales price.

3. Appraisals. VA certificates of reasonable value (CRV's) are acceptable.

#### D. FmHA loans only.

1. In general. The authority will normally accept FmHA underwriting requirements and property standards for FmHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Guarantee fee. 1.0% FmHA guarantee fee can be included in loan amount provided final loan amount does not exceed the authority's maximum allowable sales price.

#### E. FmHA Interest Assistance Program.

Borrowers with low income, as determined by FmHA, are eligible for interest assistance payments. FmHA will make monthly payments to the authority to reduce the effective interest rate, depending on the borrower's income. However, no borrower will pay less than 20% of adjusted income, as determined by FmHA, for principal, interest, taxes, and insurance. Interest assistance payments will be recalculated by the authority at such times as are required by FmHA. All interest assistance by FmHA is subject to recapture by FmHA at the time the property is sold. In the event the authority intends to sell the FmHA Interest Assistance Program loans to the Federal National Mortgage Association ("FNMA"), each such loan must satisfy all of the applicable guidelines, requirements, terms and conditions imposed by FNMA.

#### F. FHA and VA buydown program.

With respect to FHA and VA loans, the authority permits the deposit of a sum of money (the "buydown funds") by a party (the "provider") with an escrow agent, a portion of which funds are to be paid to the authority each month in order to reduce the amount of the borrower's monthly payment during a certain period of time. Such arrangement is governed by an escrow agreement for buydown mortgage loans (see Exhibit V) executed at closing (see § 2.15 for additional information). The escrow agent will be required to sign a certification (Exhibit X) in order to satisfy certain FHA requirements. For the purposes of underwriting buydown mortgage loans, the reduced monthly payment amount may be taken into account based on FHA guidelines then in effect (see also subsection B or C above, as applicable).

#### G. Interest rate buydown program.

Unlike the program described in subsection [ F ] above which permits a direct buydown of the borrower's

monthly payment, the authority also from time to time permits the buydown of the interest rate on a conventional, FHA or VA mortgage loan for a specified period of time.

#### § 2.9. Funds necessary to close.

A. Cash (Not applicable to FHA or , VA or FmHA loans).

Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit the applicant to borrow funds for this purpose, except where (i) the loan amount is less than or equal to 80% of the lesser of the sales price or the appraised value, or (ii) the loan amount exceeds 80% of the lesser of the sales price or the appraised value and the applicant borrows a portion of the funds from their employer with the approval of the private mortgage insurer and the applicant pays in cash from their own funds [ or an ] amount equal to at least 3.0% of the lesser of the sales price or the appraised value. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

#### B. Gift letters.

A gift letter is required when an applicant proposes to obtain funds as a gift from a third party. The gift letter must confirm that there is no obligation on the part of the borrower to repay the funds at any time. The party making the gift must submit proof that the funds are available. This proof should be in the form of a verification of deposit.

#### C. Housing expenses.

Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed carefully to determine if there is a substantial increase. If there is a substantial increase, the applicant must demonstrate his ability to pay the additional expenses.

#### § 2.10. Loan assumptions.

#### A. Requirements for assumptions.

VHDA currently permits assumptions of all of its single family mortgage loans provided that certain requirements are met. For all loans closed prior to January 1, 1991, except FHA loans which were closed during calendar year 1990, the maximum gross family income for those assuming a loan shall be 100% of the applicable Median Family Income. For such FHA loans closed during 1990, if assumed by a household of three or more persons, the maximum gross family income shall be 115% of the applicable Median Family Income (140% for a residence in a targeted area) and if assumed by a household of less

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than three persons, the maximum gross family income shall be 100% of the applicable Median Family Income (120% for a residence in a targeted area). For all loans closed after January 1, 1991, the maximum gross family income for those assuming loans shall be as set forth in § 2.5 A of these regulations. The requirements for each of the two different categories of mortgage loans listed below (and the subcategories within each) are as follows:

## 1. Assumptions of conventional loans.

a. For assumptions of conventional loans financed by the proceeds of bonds issued on or after December 17, 1981, the requirements of the following sections hereof must be met:

- (1) Maximum gross family income requirement in this § 2.10 A
- (2) § 2.2.1.C (Principal residence requirement)
- (3) § 2.8 (Authority underwriting requirements)
- (4) § 2.2.1.B (Three-year requirement)
- (5) § 2.2.2.B (Acquisition cost requirements)
- (6) § 2.7 (Mortgage insurance requirements).

b. For assumptions of conventional loans financed by the proceeds of bonds issued prior to December 17, 1981, the requirements of the following sections hereof must be met:

- (1) Maximum gross family income requirement in this § 2.10 A
- (2) § 2.2.1.C (Principal residence requirements)
- (3) § 2.8 (Authority underwriting requirements)
- (4) § 2.7 (Mortgage insurance requirements).

## 2. Assumptions of FHA ~~or~~, VA or FmHA loans.

a. For assumptions of FHA ~~or~~, VA or FmHA loans financed by the proceeds of bonds issued on or after December 17, 1981, the following conditions must be met:

- (1) Maximum gross family income requirement in this § 2.10.A
- § 2.2.1.C (Principal residence requirement)
- (3) § 2.2.1.B (Three-year requirement)
- (4) § 2.2.2.B (Acquisition cost requirements).

In addition, all applicable FHA ~~or~~, VA or FmHA underwriting requirements, if any, must be met.

b. For assumptions of FHA ~~or~~, VA or FmHA loan. financed by the proceeds of bonds issued prior to December 17, 1981, only the applicable FHA ~~or~~, VA or FmHA underwriting requirements, if any, must be met.

B. Authorization to process assumptions/Requirement that the authority to contacted.

Although the requirements listed in subsection A above are generally those that only originating agents are responsible for determining compliance with, in the case of assumptions, servicing agents are also authorized to make such determinations. More generally, for the purposes of this § 2.10, servicing agents may process assumption requests provided that they do so in accordance with all the requirements hereof, including those otherwise the exclusive responsibility of originating agents. Accordingly, references are made within this section to "originating agents or servicing agents" in order to reflect this additional role of servicing agents.

The originating agent or servicing agent must in each case of a request for assumption of a mortgage loan contact the authority in order to determine which category of loans described in subsection A above applies to the loan and whether or not the requirements of the applicable category are satisfied. (For example, in cases of assumptions, the originating agent or servicing agent may not rely - as it may for new loans - on the fact that the acquisition cost of the dwelling is less than the authority's sales price limits to satisfy the acquisition cost requirement. It is therefore essential that the authority be contacted in each case.)

## C. Application package for assumptions.

Once the originating agent or servicing agent has contacted the authority and it has been determined which of the categories described in subsection A above applies to the loan, the originating agent or servicing agent must submit to the authority the information and documents listed below for the applicable category:

### 1. Assumption package for conventional loans:

a. Conventional loans financed by the proceeds of bonds issued on or after December 17, 1981:

- (1) Affidavit of borrower (Exhibit E).
- (2) Affidavit of seller (Exhibit F).
- (3) Acquisition cost worksheet (Exhibit G).
- (4) Appraiser's report (Exhibit H).
- (5) Three year's tax returns.
- (6) Originating agent's checklist (Exhibit A(1)).

- (7) 4506 form (Exhibit Q).
- (8) Originating agent's loan submission cover letter (Exhibit 0(1)).
- (9) Authority's completed application (Exhibit D).
- (10) Verification of employment (VOE's) (and other income related information).
- (11) Verification of deposit (VOD's).
- (12) Credit report.
- (13) Sales contract.
- (14) Truth-in-Lending (Exhibit K) and estimate of charges.
- (15) Equal Credit Opportunity Act (ECOA) /Recapture Tax/RESPA notice (Exhibit I).
- (16) Authority underwriting qualification sheet (Exhibit B(1)).
- (17) *All other requirements of state and federal law must be met.*

b. Conventional loans financed by the proceeds of bonds issued prior to December 17, 1981:

- (1) Authority's completed application (Exhibit D).
- (2) Verification of employment (VOE's) (and other income related information).
- (3) Verification of deposit (VOD's).
- (4) Credit report.
- (5) Sales contract.
- (6) Truth-in-Lending (Exhibit K) and estimate of charges.
- (7) Equal Credit Opportunity Act (ECOA) /Recapture Tax/RESPA notice (Exhibit I).
- (8) Authority underwriting qualification sheet (Exhibit B(2)).
- (9) *All other requirements of state and federal law must be met.*

2. Assumption package for FHA ~~or~~ , VA or FmHA loans.

a. FHA ~~or~~ , VA or FmHA loans financed by the proceeds of bonds issued on or after December 17, 1981:

- (1) Affidavit of borrower (Exhibit E).
- (2) Affidavit of seller (Exhibit F).
- (3) Acquisition cost worksheet (Exhibit G).
- (4) Appraiser's Report (Exhibit H).
- (5) Three year's *years'* tax returns.
- (6) Originating agent's checklist (Exhibit A(1)).
- (7) 4506 form (Exhibit Q).
- (8) Originating agent's loan submission cover letter (Exhibit 0(2) or (3)).
- (9) Authority's completed application (Exhibit D).
- (10) Sales contract.
- (11) Copy of the executed FHA mortgage credit analysis worksheet if the original borrowers are to be released from liability.
- (12) *Equal Credit Opportunity Act (ECOA)/Recapture Tax/RESPA notice (Exhibit I).*
- (13) *Truth-in-Lending (Exhibit K) and estimate of charges if original borrowers are to be released from liability.*
- (14) *A copy of the FHA Notice to Homeowner, if the original borrowers will not be released from liability.*

~~(12)~~ (15) In addition, all applicable requirements, if any, of FHA ~~or~~ , VA or FmHA and those under state and federal law must also be met.

b. FHA ~~or~~ , VA or FmHA loans financed by the proceeds of bonds issued prior to December 17, 1981: ~~Only the~~ *The* applicable requirements, if any, of FHA ~~or~~ , VA or FmHA and those under state and federal law must be met.

D. Review by the authority/additional requirements.

Upon receipt from an originating agent or servicing agent of an application package for an assumption, the authority will determine whether or not the applicable requirements referenced above for assumption of the loan have been met and will advise the originating agent or servicing agent of such determination in writing. The authority will further advise the originating agent or servicing agent of all other requirements necessary to complete the assumption process. Such requirements may include but are not limited to the submission of satisfactory evidence of hazard insurance coverage on the property, approval of the deed of assumption, satisfactory evidence of mortgage insurance or mortgage guaranty

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including, if applicable, pool insurance and , submission of an escrow transfer letter and execution of a Recapture Requirement Notice (VHDA Doc. R-1) .

## § 2.11. Leasing, loan term, and owner occupancy.

### A. Leasing.

The owner may not lease the property without first contacting the authority.

### B. Loan term.

Loan terms may not exceed 30 years.

### C. Owner occupancy.

No loan will be made unless the residence is to be occupied by the owner as the owner's principal residence.

## § 2.12. Reservations/fees.

### A. Making a reservation.

The authority currently reserves funds for each mortgage loan on a first come, first serve basis. Reservations are made by specific originating agents with respect to specific applicants and properties. No substitutions are permitted. Similarly, locked-in interest rates (see subdivision 5 below) are also nontransferable. In order to make a reservation of funds for a loan, the originating agent shall:

1. First make a determination based on the information then made available to it by the applicant or otherwise that neither the applicant nor the property appears to violate any of the authority's eligibility requirements for a new loan.

2. Collect a \$100 nonrefundable reservation fee (or such other amount as the authority may require).

3. Determine what type of mortgage insurance or guarantee will be required; specifically, whether the loan will be a conventional loan, an FHA loan or , a VA loan or an FmHA loan .

4. Complete a reservation sheet (Exhibit C(1)).

5. Call the authority (after completing the four preceding requirements) between 9 a.m. and 5 p.m. Monday through Friday for the assignment of a reservation number for the loan, the interest rate which shall be locked in for the reserved funds and an expiration date for the reservation, all of which will be assigned after the originating agent gives to the authority the following information:

- a. Name of primary applicant

- b. Social security number of applicant

- c. Estimated loan amount

- d. PDS agent's servicer number

- e. Gross family income of applicant and family, if any

- f. Location of property (city or county)

- g. Verification of receipt of the reservation fee

- h. Type of mortgage insurance to be used (if conventional, the authority will assign the loan a suffix "C;" if FHA, the suffix will be "F"; and, if VA, it will be "V" ; and if FmHA, it will be "FM" ).

6. Complete the reservation card by filling in the reservation number, interest rate, expiration date and by executing it (only an authorized representative of the originating agent may sign the reservation card) and, in addition, complete a lock-in disclosure (Exhibit C(2)) and have the applicant execute it prior to submitting it with the application package.

7. Submit the complete application package to the authority (see § 2.13) along with evidence of receipt of the reservation fee within 60 days after the authority assigns the reservation number to the loan (i.e., takes the reservation). Funds will not be reserved longer than 60 days unless the originating agent requests and receives an additional one-time extension prior to the 60-day deadline.

### B. More than one reservation.

An applicant may request a second reservation if the first has expired, but in no case may the interest rate be reduced without the authority's prior approval. In addition, a second reservation fee must be collected for a second reservation.

### C. The reservation fee.

Under no circumstances is this fee refundable. If the loan closes, it will be retained by the originating agent as part of its 1.0% origination fee. If (i) the application is not submitted prior to the expiration of the reservation, or (ii) the authority determines at any time that the loan will not close, this reservation fee must be submitted to the authority within 30 days after such expiration or such determination by the authority, as applicable. If, in such cases, the fee is not received by the authority within such 30-day period, the originating agent shall be charged a penalty fee of \$50 in addition to the reservation fee (see subsection D for other fees). No substitutions of applicants or properties are permitted.

### D. Other fees.

1. Commitment fee. The originating agent must collect

at the time of the issuance of a commitment by the authority an amount equal to 1.0% of the loan amount less the amount of the reservation fee already collected (such that the total amount received by the originating agent at that point equals 1.0% of the loan amount - please also note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only). If the loan closes, the originating agent retains such 1.0% fee as its original fee. If the loan does not close the origination fee (which includes the reservation fee) must be submitted to the authority when the failure to close is due to the fault of the applicant. On the other hand, if the failure to close is not due to the fault of the applicant, then the collected commitment fee less the reservation fee may at the option of the authority be refunded to the applicant. (The reservation fee, as required in subsection C above is always submitted to the authority when a loan fails to close.)

2. Discount point. The originating agent must collect at the time of closing an amount equal to 1.0% of the loan amount from the seller. This fee is to be remitted to the authority by the originating agent.

## § 2.13. Preparation of application package for new loans.

### A. Conventional loans.

The application package submitted to the authority for approval of a conventional loan must contain the following original documents:

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).
2. Application - the application must be made on the authority's approved application form. (Exhibit D)
3. Preliminary underwriting form. (Exhibit B)
4. Credit report issued by local credit bureau and miscellaneous information as applicable explanation of bankruptcies, etc., (and any additional documentation).
5. Verification of employment (and any additional documentation).
6. Verification of other income.
7. Verification of deposits (and any additional documentation).
8. Gift letters (and verification).
9. Sales contract - contract must be signed by seller and all parties entering into the contract and state which parties are paying points and closing costs.
10. Appraisal (FHLMC No. 70) should be the Federal National Mortgage Association ("FNMA") or Federal

Home Loan Mortgage Corporation ("FHLMC") form and should be completed by an appraiser who has been approved by FHLMC or a private mortgage insurer acceptable to the authority or who has a certification from a trade organization approved by the authority (photos and required supporting documentation).

11. Loan submission cover letter. (Exhibit O(1))
12. Appraiser's report. (Exhibit H)
13. Acquisition cost worksheet. (Exhibit G)
14. Affidavit of seller. (Exhibit F)
15. Affidavit of borrower. (Exhibit E)
16. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).

17. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))
18. Signed request for copy of tax returns. (Exhibit Q)
19. U.S. Department of Housing and Urban Development ("HUD") information booklet acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulations Z (Truth-in-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.
20. Equal Credit Opportunity Act ("ECOA") /*Recapture Tax/RESPA* notice statement to borrower of provisions of the ECOA, with borrower's acknowledgement of receipt. (Exhibit I)
21. Truth-in-Lending Disclosure. (Exhibit K)
22. *RESPA Disclosure Statement (Exhibit AA).*
23. *Quality Control Disclosure and Authorization (Exhibit Y).*

### B. FHA loans.

The application package submitted to the authority for



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approval of an FHA loan must contain the following items (please note that items 13 through 18 and 20 and 21 are authority forms and must be submitted as originals, not copies):

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).
2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).
3. Copy the HUD application (FHA form 92900).
4. Copy of the Mortgage Credit Analysis Worksheet (HUD form 92900-ws).
5. Copy of the credit report.
6. Copy of verification of employment and current pay stubs.
7. Copy of verification of other income.
8. Copy of verification of deposits.
9. Copy of gift letters (and verification).
10. Copy of sales contract.
11. Assignment letter - this must reference the case number, name of applicant.
12. Copy of appraisal - this must be on a form acceptable to FHA and must contain all supporting documentation necessary for valuation.
13. FHA Notice to Buyers (Document F-9)
14. Loan submission cover letter. (Exhibit O(2))
15. Appraiser's report. (Exhibit H)
16. Acquisition cost worksheet. (Exhibit G)
17. Affidavit of seller. (Exhibit F)
18. Affidavit of borrower. (Exhibit E)
19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.  
  
(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).
20. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))
21. Signed request for copy of tax returns (Exhibit Q)

22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-in-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

23. Equal Credit Opportunity Act ("ECOA") /*Recapture Tax/RESPA* notice statement to borrower of provisions of ECOA, with borrower's acknowledgement of receipt. (Exhibit I)

24. Truth-in-Lending Disclosure. (Exhibit K)

25. *RESPA Disclosure Statement. (Exhibit AA)*

26. *Quality Control Disclosure and Authorization. (Exhibit Y)*

## C. VA loans.

The application package submitted to the authority for approval of a VA loan must contain the following items (please note that items 15 through 18 and 20 and 21 are authority forms and must be submitted as originals, not copies):

1. Reservation sheet (Exhibit C(1) and lock-in disclosure (Exhibit C(2))).
2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).
3. Copy the VA application (VA form 26-1802A).
4. Copy of the Loan Analysis Worksheet (VA form 6393).
5. Copy of VA certificate of eligibility.
6. Copy of VA benefits and related indebtedness letter.
7. Copy of the credit report.
8. Copy of verification of employment (if active duty, include current LES form).
9. Copy of verification of other income.
10. Copy of verification of deposits.
11. Copy of gift letters (and verification).
12. Copy of sales contract.

13. Copy of appraisal - this must be on a form acceptable to VA and must contain all supporting documentation necessary for valuation.

14. Loan submission cover letter. (Exhibit O(3))

15. Appraiser's report. (Exhibit H)

16. Acquisition cost worksheet. (Exhibit G)

17. Affidavit of seller. (Exhibit F)

18. Affidavit of borrower. (Exhibit E)

19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).

20. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

21. Signed request for copy of tax returns (Exhibit Q)

22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

23. Equal Credit Opportunity Act ("ECOA") /Recapture Tax/RESPA notice statement to borrower of provisions of ECOA, with borrower's acknowledgement of receipt. (Exhibit I)

24. Truth-in-Lending Disclosure. (Exhibit K)

25. RESPA Disclosure Statement. (Exhibit AA)

26. Quality Control Disclosure and Authorization. (Exhibit Y)

#### D. FmHA loans.

The application package submitted to the authority for approval of an FmHA loan must contain the following items (please note that items 13 through 18 and 20 and 21 are authority forms and must be submitted as originals, not copies):

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).

2. Application - must be on the authority's form and can be handwritten if legible. (Exhibit D)

3. Copy of the HUD application (FHA form 92900).

4. Copy of the credit report.

5. Copy of verification of employment and current pay stubs.

6. Copy of verification of other income.

7. Copy of verification of deposits.

8. Copy of gift letters (and verification).

9. Copy of sales [ ~~contracts~~ contract ] .

10. Copy of appraisal - this must be on a form acceptable to FmHA and must contain all supporting documentation necessary for valuation.

11. Privacy Act Statement (Form FmHA 410-9).

12. Loan submission cover letter. (Exhibit O(2))

13. Appraiser's report. (Exhibit H)

14. Acquisition cost worksheet. (Exhibit G)

15. Affidavit of seller. (Exhibit F)

16. Affidavit of borrower. (Exhibit E)

17. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof. (NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to § 2.2.1.B.3 hereof, such letter must be enclosed instead).

18. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

19. Signed request for copy of tax returns. (Exhibit Q)

20. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-in-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day

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application is made.

21. *Equal Credit Opportunity Act ("ECOA")/Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)*

22. *Truth-in-Lending Disclosure. (Exhibit K)*

23. *RESPA Disclosure Statement. (Exhibit AA)*

24. *Quality Control Disclosure and Authorization. (Exhibit Y)*

25. *Other items which FmHA requires. The authority will advise you of such additional requirements, if any.*

Ⓓ. E. Delivery of package to [ the ] authority.

After the application package has been completed, it should be forwarded to:

Single Family Division  
Originations Department  
Virginia Housing Development Authority  
601 South Belvidere Street  
Post Office Box 5206  
Richmond, VA. 23220-8206

§ 2.14. Commitment. (Exhibit J)

A. In general.

Upon approval of the applicant, the authority will send a mortgage loan commitment to the borrower in care of the originating agent. Also enclosed in this package will be other documents necessary for closing. The originating agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the originating agent, along with the 1.0% commitment fee, within 15 days after the date of the commitment. If the borrower does so indicate his acceptance of the commitment, the originating agent shall retain the fee in accordance with § 2.1.2.D.1. above. If the borrower fails to so indicate his acceptance of the commitment, either by failing to return an executed original thereof or by failing to submit the fee, or both, the originating agent shall, within 20 days after the date of the commitment, notify the authority in writing of such failure. If the originating agent does not do so, the authority shall deem that commitment to have been duly accepted, and the originating agent shall be liable to the authority for the uncollected commitment fee based on the loan's failure to close as described in § 2.1.2.D.1. above.

A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant and approved by the authority. Generally, no more than one commitment will

be issued to an applicant in any calendar year. However, if an applicant who received a commitment fails to close the mortgage loan transaction through no fault of his own, that borrower may be considered for one additional commitment upon proper reapplication to the authority within the one year period from the cancellation or expiration of the original commitment; provided, however, that the interest rate offered in the additional commitment, if issued, may be higher than the rate offered in the original commitment. Such new rate and the availability of funds therefor shall in all cases be determined by the authority in its discretion.

B. Loan rejection.

If the application fails to meet any of the standards, criteria and requirements herein, a loan rejection letter will be issued by the authority (see Exhibit L). 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, the credit documentation cannot be more than 90 days old and the appraisal not more than six months old.

§ 2.15. Loan settlement.

A. Loan closing.

1. In general. Upon the borrower's acceptance of the mortgage loan commitment, the originating agent will send the authority's letter and closing instructions (see Exhibits M and N) and the closing papers to the closing attorney. The originating agent should thoroughly familiarize himself with the closing instructions and should fill in all blanks such as per diem interest, appraisal fee, credit report charges to be collected at closing, and any special requirements of the commitment before the closing instructions are forwarded to the closing attorney. The authority will provide the originating agent with the documents which the closing attorney is required to complete.

Once the attorney completes the preclosing package, it should be mailed to:

Single Family Division  
Pre-Closing Section  
Virginia Housing Development Authority  
601 South Belvidere Street  
Post Office Box 4593  
Richmond, VA 23220-8593

After the authority reviews the closing attorney's preliminary work and has been advised by the originating agent in the case of an FHA or VA or FmHA loan that all applicable FHA or VA or FmHA requirements have been met, it will approve closing and, a loan proceeds check will be sent to the closing attorney or firm named in the title insurance commitment or binder as approved under the issuing company's insured closing service, along with

additional closing instructions. The closing attorney may disburse loan proceeds only after he has conducted the loan closing and recorded all necessary documents, including the deed of trust securing repayment of the loan to the authority and in all other respects is in a position to disburse proceeds in accordance with the authority's letter authorizing the closing, the commitment and the instructions previously issued by the originating agent. It is the originating agent's responsibility to see that all documents and checks are received immediately after loan closings and that they are completed in accordance with the authority's requirements, Regulation Z and ECOA.

2. Special note regarding checks for buy-down points (this applies to both the monthly payment buydown program described in § 2.8.D above and the interest rate buydown program described in § 2.8.E). A certified or cashier's check made payable to the authority is to be provided at loan closing for buy-down points, if any. Under the tax code, the original proceeds of a bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. If buy-down points are paid out of mortgage loan proceeds (which are financed by bonds), then this federal regulation is violated because bond proceeds have in effect been used to pay debt service rather than for the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds and not be deducted from loan proceeds. Because of this requirement, buy-down funds may not appear as a deduction from the seller's proceeds on the HUD-1 Settlement Statement.

#### B. Post-closing requirements.

All post-closing documents, including the post-closing cover letter (Exhibit P), should be forwarded as follows to:

Single Family Division  
Post-Closing Section  
Virginia Housing Development Authority  
601 South Belvidere Street  
Post Office Box 5427  
Richmond, VA 23220-8427

Within ~~five~~ 10 days after the closing of the loan, the originating agent must forward the fees, interest and any other money due the authority, a repayment of the authority's outstanding construction loan, if any, private mortgage insurance affidavit and all closing documents except the original recorded deed of trust and title insurance policy and hazard insurance policy.

Within ~~45~~ 90 days after loan closing, the originating agent shall forward to the authority the original recorded deed of trust and "final mortgage title insurance policy and FHA certification of insurance, VA guaranty or FmHA

*guarantee*. Within 55 days after loan closing the originating agent shall forward to the authority the original hazard insurance policy.

During the 120-day period following the loan closing the originating agent shall review correspondence, checks and other documents received from the borrower for the purpose of ascertaining that the address of the property and the address of the borrower are the same, and also to ascertain any change of address during such period and shall notify the authority if such addresses are not the same or if there is any such change of address. Subject to the authority's approval, the originating agent may establish different procedures to verify compliance with the principal residence requirement in § 2.2.1.C. In the event that the originating agent receives information at any time that any item noted on the originating agent's checklist for certain requirements of the tax code may not be correct or proper, the originating agent shall immediately notify the authority.

#### § 2.16. Property guidelines.

##### A. In general.

For each application the authority must make the determination that the property will constitute adequate security for the loan. The determination shall in turn be based solely upon a real estate appraisal's determination of the value and condition of the property.

In addition, manufactured housing (mobile homes) may be financed only if it is new construction and insured 100% by FHA (see subsection C). Existing manufactured housing is not eligible for authority financing.

##### B. Conventional loans.

1. Existing housing and new construction. The following requirements apply to both new construction and existing housing to be financed by a conventional loan: (i) all property must be located on a state maintained road (easements or rights-of-way to state maintained roads are not acceptable as access to properties); (ii) any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis to determine whether such easements will be acceptable to the authority; (iii) property with available water and sewer hookups must utilize them; and (iv) property without available water and sewer hookups may have their own well and septic system; provided that joint ownership of a well and septic system will be considered on a case-by-case basis to determine whether such ownership is acceptable to the authority.

2. Additional requirements for new construction. New construction financed by a conventional loan must also meet Uniform Statewide Building Code and local code.

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## C. FHA or VA or FmHA loans.

1. Existing housing and new construction. Both new construction and existing housing financed by an FHA or VA or FmHA loan must meet all applicable requirements imposed by FHA or VA or FmHA.

2. Additional requirements for new construction. If such homes being financed by FHA loans are new manufactured housing they must meet federal manufactured home construction and safety standards, satisfy all FHA insurance requirements, be on a permanent foundation to be enclosed by a perimeter masonry curtain wall conforming to standards of the Uniform Statewide Building Code, be permanently affixed to the site owned by the borrowers and be insured 100% by FHA under its section 203B program. In addition, the property must be classified and taxed as real estate and no personal property may be financed.

### § 2.17. Substantially rehabilitated.

For the purpose of qualifying as substantially rehabilitated housing under the authority's maximum sales price limitations, the housing unit must meet the following definitions:

1. Substantially rehabilitated means improved to a condition which meets the authority's underwriting/property standard requirements from a condition requiring more than routine or minor repairs or improvements to meet such requirements. The term includes repairs or improvements varying in degree from gutting and extensive reconstruction to cosmetic improvements which are coupled with the cure of a substantial accumulation of deferred maintenance, but does not mean cosmetic improvements alone.

2. For these purposes a substantially rehabilitated housing unit means a dwelling unit which has been substantially rehabilitated and which is being offered for sale and occupancy for the first time since such rehabilitation. The value of the rehabilitation must equal at least 25% of the total value of the rehabilitated housing unit.

3. The authority's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards. An appraisal is to be submitted after the authority's inspection and is to list the improvements and estimate their value.

4. The authority will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the tax code, the proceeds of the mortgage loan cannot be used to refinance an existing mortgage, as explained in § 2.2.1.D (New mortgage requirement). The authority

will approve loans to cover the purchase of residence, including the rehabilitation:

a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and

b. Where the eligible borrower is acquiring an unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a substantial rehabilitation or performs the rehabilitation work himself prior to occupancy.

### § 2.18. Condominium requirements.

#### A. Conventional loans.

1. The originating agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The originating agent must submit evidence at the time the borrower's application is submitted to the authority for approval.

2. At the time the borrower's loan application is submitted for the financing of a unit in any condominium in which the authority has not previously financed the purchase of any units, Exhibit S, providing basic information about the condominium, must be completed by the Unit Owners Association. The most recent financial statement and operating budget of the condominium (or, in the case of a newly constructed or converted condominium, a copy of the projected operating budget and a copy of the most recent financial statement, if any) must also be submitted. The authority will review the above described form and financial information. If on the basis of such review the authority finds the condominium to be acceptable, the condominium will be approved and the individual loan application will be processed. Exhibit S requires that the Unit Owners Association agree to submit to the authority upon its request, the condominium's annual financial statements, operating budget and other information as the authority may require. The association is also required to agree that the authority shall have a right to inspect the condominium and its records. The form states that failure to comply with the foregoing shall be grounds for the authority's termination of its approval of the condominium.

3. Each year the authority will send Exhibit T to the Unit Owners Association requesting information concerning the condominium including a statement as to the status of the approvals of VA, FNMA and FHLMC, as applicable, and a copy of the condominium's financial statement and operating budget. The association will be advised that if the request for information is not received within 90 days from the date of the request, the authority may terminate its approval of the condominium. The

authority will review the financial statement and operating budget and the questionnaire and if the condominium remains in satisfactory condition, the authority will continue to make mortgage loans on the units subject to the limitations in paragraph 4 below. In the event the authority determines a condominium is not in satisfactory condition, the Unit Owners Association will be given 60 days to correct the deficiencies. If the deficiencies are not corrected to the satisfaction of the authority, the condominium will no longer be approved for financing. The requirements and procedures in this section will also apply to condominiums previously approved by the authority.

4. If a condominium is approved by FNMA, the authority will make mortgage loans on no more than 50% of the units in the condominium. If the condominium is not approved by FNMA, the authority will make mortgage loans on no more than 25% of the units in the condominium. If a condominium is to be phased, the foregoing percentage limits will be applied to each phase until all phases are completed. If the condominium has been previously approved by the authority and exceeds the foregoing percentage limitations, the authority will make no further mortgage loans for the purchase of the units in the condominium until such time as its percentage limits are no longer violated.

**B. FHA or VA or FmHA loans.**

The authority will accept a loan to finance a condominium if the condominium is approved by FHA, in the case of an FHA loan, [ or ] by VA, in the case of a VA loan or by FmHA, in the case of an FmHA loan.

**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES  
(BOARD OF)**

**Title of Regulation:** State Plan for Medical Assistance Relating to Spousal Impoverishment.  
**VR 460-02-2.6100. Eligibility Conditions and Requirements.**  
**VR 460-03-2.6113. § 1924 Provisions.**  
**VR 460-04-8.6. Spousal Impoverishment.**

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

**Effective Date:** October 1, 1991.

**Summary:**

*This regulation defines methods for determining income and resource eligibility for institutionalized individuals who have a spouse or dependent relative living at home.*

*This Plan amending and regulatory action affects Attachment 2.6 A and the Spousal Impoverishment regulations at VR 460-04-8.6.*

*The provisions of § 1924 of the Social Security Act define new methods for determining income and resource eligibility and set forth a new method of computing post-eligibility income for institutionalized individuals who have spouses and dependent relatives at home. These requirements allow a community spouse (or other dependent relative) of a nursing home patient a minimum income allowance for basic living expenses, and protect a specified amount of the resources which the institutionalized spouse owns individually or jointly with the community spouse. In this way, the community spouse is not completely impoverished in order for the institutionalized spouse to become eligible for Medicaid.*

*The regulation is based upon the statutory language where that is clear, and upon the interpretive guidelines obtained from HCFA where interpretation is required. The levels of income and resource standards are the minimum required by federal law.*

*The federal statute allows states to apply these income and resource rules to individuals in home and community-based care waiver programs. These individuals receive services intended to prevent their entering nursing homes. The department evaluates eligibility for these individuals in the same manner as if they were institutionalized. This similar treatment ensures that individuals are not forced to enter nursing homes to become eligible for Medicaid if services in their private homes would cost Medicaid less than nursing home care. Failure to implement spousal allowance rules for both groups simultaneously could result in unnecessary and more expensive nursing home placements for individuals who otherwise would remain at home under the waiver program.*

*The final regulations contain no substantive differences from the proposed regulations. The description of the undue hardship was removed from the State Plan at Supplement 13, Attachment 2.6-A, page 1, at the direction of the Health Care Financing Administration. New language specified by the Health Care Financing Administration was added which states that the state has defined undue hardship. The definition of "undue hardship" in the state regulations at VR 460-04-8.6, § 1 and the exemption of excess resources if denial of Medicaid would create an undue hardship at § 2.11 were left intact. In another section wording was added for clarification.*

**VR 460-02-2.6100. Eligibility Conditions and Requirements.**

| Citations(s) | Condition or Requirement                         |
|--------------|--|
|              | 3. For families and children, each family member |
|              | AFDC level \$                                    |

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Monthly Medically needy levels \$ See Below  
Other as follows \$

4. Amounts for incurred medical expenses not subject to payment by a third party

Except as provided in § 1924 of the Act, the policies reflected in C, items 1-5 apply. See Supplement 13 for additional policies relative to § 1924.

- a. Health insurance premiums, deductibles and co-insurance charges
- b. Necessary medical or remedial care not covered under the Medicaid plan (Reasonable limits on amounts are described in Supplement 3 to ATTACHMENT 2.6-A.) (No limits on amounts are applied)

5. An amount for maintenance of a single individual's home for not longer than 6 months, if a physician has certified he or she is likely to return home within that period.

X Yes. Amount for maintenance of home \$..... See B.2.

No.

1902(1) of the Act, P.L. 99-643 (§ 3(b))

6. SSI benefits paid under § 1611(e)(1)(E) of the Act to individuals who receive care in a hospital, SNF, or ICF.

For § 1924 policies see 5a.

435.711  
435.721  
435.831

C. Financial Eligibility - Categorically and Medically Needy and Qualified Medicare Beneficiaries

1. Income disregards - Categorically and Medically Needy and Qualified Medicare Beneficiaries

B.2. Group I = \$216.67; Group II - \$250.00; Group III = \$325.00

B.3. For appropriate family size (see Supplement 1 to Attachment 2.6A, Page 2)

7. Maintenance Standard for community spouse and other dependent family members under § 1924 of the Act.

a. Community Spouses

X 1. Standard based on formula contained in § 1924(d) is used.

2. Maximum standard contained in § 1924(d)3.

3. A fixed standard which is greater than the minimum standard described in § 1924(d) plus actual shelter costs not to exceed maximum standard contained in § 1924(d)(3)(c).  
[ The standard used is .... ]

b. Other family members who are

dependent.

X 1. Standard based on the formula contained in § 1924(d)(1)(C) is used.

2. A fixed standard greater than the amount which would be used if the formula described in § 1924(d)(1)(c) were used.

The standard used is ....

X c. The standards described above are used for individuals receiving home and community based services in lieu of services provided in medical or remedial institutions.

d. Definition of dependency.

The definition of dependency below is used to define dependent children, parents and siblings for purposes of deducting allowances under § 1924.

The definition used is:

Dependent Children - A couples' children age 21 and older who live with a community spouse and who may be claimed as dependents by either member of a couple for tax purposes under the Internal Revenue Services Code. This also includes minor children under age 21 who live with a community spouse.

Dependent Parents - Parents of either member of a couple who reside with the community spouse and who may be claimed as dependents by either spouse for tax purposes under the Internal Revenue Services Code.

Dependent Siblings - A brother or sister of either member of a couple (including and half-brothers and half-sisters and siblings gained through adoption) who reside with the community spouse and who may be claimed by either member of the married couple for tax purposes under the Internal Revenue Services Code.

## VR 460-03-2.6113. § 1924 Provisions.

### § 1924 Provisions

a. Income and Resource eligibility policies used to determine eligibility for institutionalized spouses who have spouses living in the community are consistent with § 1924.

b. In the determination of resource eligibility the state resource standard is \$12,000 adjusted annually in accordance with § 1924(g).

c. [ The definition of undue hardship or purposes of determining if institutionalized spouses receive Medicaid in spite of having excess countable resources is described below:

Denial of Medicaid eligibility would result in the institutionalized spouse being removed from the institution and unable to purchase life-sustaining medical care.

[ An institutionalized spouse who (or whose spouse) has excess resources shall not be found ineligible under title XIX of the Social Security Act, per § 1924(c)(3)(C), where the state determines that denial of eligibility on the basis of having excess resources would work an undue hardship. ]

"Community spouse" means a [ ~~married~~ ] person who is not an inpatient at a medical institution or nursing facility and who is married to an institutionalized spouse.

"Community spouse maintenance needs allowance" is an amount by which the applicable percentage of 1/12 of the [ ~~FPL~~ Federal Poverty Level ] for a family of two, in effect on July 1 of each year, plus an excess shelter allowance exceeds the amount of monthly income otherwise available to the community spouse. The community spouse maintenance allowance cannot exceed \$1,500 [ adjusted annually in accordance with 1924(g) ] except pursuant to a court order or an amount designated by a DMAS hearing officer.

"Community spouse resource allowance" means the difference between a couple's countable resources and the greatest of (i) the spousal share, not to exceed \$60,000; or (ii) the spousal resource standard, \$12,000; or (iii) an amount transferred to the community spouse by the institutionalized spouse pursuant to a court order; or (iv) an amount designated by a department hearing officer. For services furnished during a calendar year after 1989, the dollar amounts specified in this section shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

## VR 460-04-8.6. Spousal Impoverishment.

### PART I. GENERAL.

#### Article 1. Definitions.

##### § 1.1. Definitions.

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

"Acceptable medical evidence" means either (i) certification by a nursing home preadmission screening committee; or (ii) certification by the individual's attending physician.

"Applicable percent" means that percentage as defined in § 1924 (d)(3)(B) of the Social Security Act.

"As soon as practicable" ( [ as it relates to ] transfer of resources) means within 90 days from the date an institutional spouse agrees to transfer resources to the community spouse, unless the department determines that a longer period is necessary.

"At the beginning" of a continuous period of institutionalization means the first calendar month of the most recent continuous period of institutionalization or receipt of waiver services.

"Continuous period of institutionalization" means 30 consecutive days of institutional care in a medical institution or nursing facility, or 30 consecutive days of receipt of waiver services, or 30 consecutive days of a combination of institutional and waiver services. Continuity is broken only by 30 or more days absence from institutionalization or waiver services.

"Countable resources" means all nonexempt resources, except for a couple's home, contiguous property, household goods, and one automobile. These items are exempt for purposes of determining the combined and separate resources of institutionalized and community spouses only.

"Department" means the Department of Medical Assistance Services.

"Dependent child" means a child age 21 years old or older, of either spouse, who lives with the community spouse and who may be claimed as a dependent by either member of the couple for tax purposes pursuant to the Internal Revenue Code.

"Dependent family member" means a parent, dependent child, or dependent sibling, including half brothers and half sisters and siblings gained through adoption, of either member of a couple who resides with the community spouse and who may be claimed as a dependent by either member of the couple for tax purposes pursuant to the Internal Revenue Code.



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"Exceptional circumstances resulting in significant financial duress" means circumstances other than those taken into account in establishing the spousal maintenance allowance for which the community spouse incurs expenses in amounts that he cannot be expected to pay from the spousal maintenance allowance or from amounts held in the community spouse resource allowance.

"Excess shelter allowance" means the actual monthly expense of maintaining the community spouse's residence that exceeds 30% of the community spouse maintenance needs allowance, but limited to the total of (i) rent or mortgage, including interest and principal; (ii) taxes and insurance; (iii) any maintenance charge for a condominium or cooperative; and (iv) utilities, if not included in the rent or maintenance charge, except that utility expenses will not be included to the extent that they exceed the standard deduction under the Food Stamp program that would be appropriate to the number of persons living in the community spouse's household.

"Federal Poverty Level" or "FPL" means the annual Federal Poverty Level as computed by the Office of Management and Budget and published in the Federal Register.

"Initial determination" means:

1. Eligibility determinations made in conjunction with Medicaid applications filed during an individual's most recent continuous period of institutionalization; or
2. The first redetermination of eligibility for a Medicaid eligible institutionalized spouse after being admitted to an institution or receiving waiver services.

"Initial redeterminations" means those redeterminations of eligibility for a Medicaid eligible spouse which are regularly scheduled, or which are made necessary by a change in the individual's circumstances.

"Institutionalized spouse" means a married person who is an inpatient at a medical institution or nursing facility or who is receiving waiver services and who is likely to remain in such facility or under such care [ for at least 30 consecutive days ], and whose spouse is not an inpatient at a medical institution or nursing facility.

"Likely to remain" in an institution means a reasonable expectation based on acceptable medical evidence that an individual will be institutionalized for 30 consecutive days, even if his institutionalization or waiver services actually terminate in less than 30 consecutive days.

"Maintenance needs standard" means an income standard to which a community spouse's or other family member's income is compared in order to determine the community spouse's and other family members' maintenance allowance.

"Medical institution or nursing facility" means hospital [ skilled and ] nursing facilities [ ; intermediate care facilities ] (including ICF/MR) [ , ] consistent with the definitions of such institutions found in the Code of Federal Regulations at 42 CFR 435.1009 [ , 440.40 and 440.150 ] and which are authorized under Virginia law to provide medical care.

"Minor" means a child under age 21, of either spouse, who lives with the community spouse.

"Other family members maintenance needs allowance" means an amount for each family member, equal to 1/3 of the applicable percentage of 1/12 of the FPL for a family of two in effect on July 1 of each year, reduced by the amount of the monthly income of that family member.

"Otherwise available income or resources" means income and resources which are legally available to the community spouse and to which the community spouse has access and control.

"Promptly assess resources" means within 45 days unless the delay is due to nonreceipt of documentation or verification, if required, from the applicant or from a third party.

"Resource assessment" means an appraisal completed by request of a couple's combined countable resources at the beginning of each continuous period of institutionalization beginning on or after September 5, 1989.

"Spousal resource standard" means the minimum amount of a couple's combined countable resources (\$12,000 in 1989 and as increased each year beginning in 1990 by the same percentage increase as in the Consumer Price Index), necessary for the community spouse to maintain himself in the community.

"Spousal share" means 1/2 of the couple's countable resources at the beginning of the most recent continuous period of institutionalization, or at the beginning of a continuous period of receipt of waiver services, as determined by a resource assessment.

"Spouse" means a person who is legally married to another person under Virginia law.

"State Plan" means the State Plan for Medical Assistance.

"Undue hardship" means denial of Medicaid eligibility would result in the institutionalized spouse being removed from the institution and unable to purchase life sustaining medical care.

"Waiver services" means Medicaid reimbursed home or community-based services covered under a 1915(c) waiver approved by the Secretary of the United States Department of Health and Human Services.

## PART II. RESOURCE ASSESSMENTS AND ELIGIBILITY.

### Article 1. General.

#### § 2.1. Applicability.

Resource assessment and resource eligibility rules contained in Part II of these regulations shall apply to:

1. Persons whose first continuous period of institutionalization began on or after September 30, 1989; and
2. Institutionalized persons who leave the institution, or cease receiving waiver services, for at least 30 consecutive days and who are readmitted to the institution for a continuous period, or begin receiving waiver services for a continuous period, on or after September 30, 1989.

### Article 2. Assessments of Couple's Resources.

#### § 2.2. Resource assessment initiated.

A resource assessment shall be initiated:

1. Upon payment of a fee, if any, the amount of which is determined by the Department of Social Services, by either member of a couple, or a representative acting on behalf of either spouse, if the institutionalized spouse has not applied for Medicaid; or
2. Upon application for Medicaid by an institutionalized spouse who has a community spouse.

#### § 2.3. Notification of documentation required.

When a resource assessment is initiated, the Department of Social Services shall notify the applicant of all relevant documentation required to be submitted for the assessment.

#### § 2.4. Failure to provide documentation.

If an applicant fails to provide requested documentation within 45 days of receipt of notification sent pursuant to § 2.3, the department shall notify him that the assessment cannot be completed.

#### § 2.5. Notification of assessment and appeal rights.

The department shall provide each member of a couple with copies of the completed resource assessment and the documentation used to produce it. The department shall notify the couple of the procedure by which to appeal the resource assessment.

#### § 2.6. Appeal of resource assessment.

A. [ ~~Non-Medicaid application.~~ Not accompanied by a Medicaid application. ]

If the resource assessment was conducted [ pursuant to a ~~non-Medicaid~~ without a concurrent Medicaid ] application, it may [ not ] be appealed pursuant to the existing Client Appeals regulations (VR 460-04-8.7) [ by an ineligible spouse, but ineligible spouses will have an opportunity to appeal assessment findings if and when their institutionalized spouses apply for Medicaid ] .

#### B. Medicaid application.

A resource assessment which was conducted pursuant to a Medicaid application submitted by the institutionalized spouse may be appealed pursuant to existing Client Appeals regulations (VR 460-04-8.7).

### Article 3.

Resource Eligibility Determinations for Institutionalized Spouses.

#### § 2.7. Applicability.

This article shall be used to determine an institutionalized spouse's initial and continuing eligibility for his current continuous period of institutionalization.

#### § 2.8. Initial eligibility determinations.

Except as provided in §§ 2.10 and 2.11 of these regulations, an institutionalized spouse is eligible for Medicaid if the difference between the couple's combined countable resources and its community spouse resource allowance, as defined in § 1.1, is equal to or less than the appropriate Medicaid resource limit for one person.

#### § 2.9. Initial determinations of ineligibility.

If the difference between a couple's current combined countable resources and its community spouse resource allowance is greater than the appropriate Medicaid resource limit for one person, the institutionalized spouse shall be ineligible for Medicaid until the couple's combined countable resources are reduced to the greatest of:

1. The state's spousal resource standard (\$12,000) plus the appropriate Medicaid resource limit for one person; or
2. The spousal share (not to exceed \$60,000) plus the appropriate Medicaid resource limit for one person; or
3. A court ordered spousal share plus the appropriate Medicaid resource limit for one person; or
4. A spousal allowance determined necessary by a department hearing officer plus the appropriate

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*Medicaid resource limit for one person.*

5. For services furnished during a calendar year after 1989, the dollar amounts specified in this section shall be increased by the same percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

§ 2.10. Revisions to the community spouse resource allowance.

For the purposes of this article, a community spouse resource allowance may be revised if:

1. A department hearing officer determines on appeal that the income generated from the community spouse resource allowance as originally calculated as described in § 2.9 of this article is inadequate to raise the community spouse's income to the minimum amount to be deducted as a maintenance allowance in the post-eligibility determination made pursuant to Part III of these regulations; or

2. A department hearing officer determines on appeal that the original calculation was incorrect; or

3. The department determines that the original information with which the spousal share was calculated was incorrect.

§ 2.11. Additional resource exclusions.

If an institutionalized spouse has resources exceeding the appropriate Medicaid resource limit for one person, the following are deducted from his resources for the purpose of establishing eligibility, as appropriate:

1. The amount of resources which the institutionalized spouse has transferred to the community spouse or to other dependents pursuant to a court support order;

2. Support rights of institutionalized spouses assigned to the Commonwealth;

3. Any support rights which cannot be assigned due to the institutionalized spouse's legal incompetency and upon which the Commonwealth would have a legal right to recover against the community spouse;

4. An amount necessary to make the individual eligible if the Department determines that the denial of Medicaid would create undue hardship as defined in § 1.1 of these regulations.

§ 2.12. Redetermination of eligibility of institutionalized spouses.

Beginning with the first calendar month following the date of the initial determination of eligibility, unless § 2.18 or 2.19 of these regulations applies, the institutional

spouse's continuing eligibility shall be determined based solely on resources held in his name. The community spouse's resources shall not be deemed available to the institutional spouse in the month following the initial month of ongoing eligibility.

§ 2.13. Post-eligibility resource transfers.

After an initial determination of eligibility, an institutionalized spouse may transfer to his community spouse any of the community spouse resource allowance which is not already titled to the community spouse. Any amount of the community spouse resource allowance which is not transferred pursuant to this section and which is not actually available to meet the community spouse's needs, shall be deemed available to the institutional spouse for the purpose of determining continuing eligibility.

§ 2.14. Protected periods of eligibility.

Subject to § 2.15, for 90 days after an initial determination of eligibility, an institutionalized spouse's eligibility shall be protected (i.e., the resources in the community spouse resource allowance shall not be attributed to the institutionalized spouse) to allow him time to legally transfer resources pursuant to § 2.13 if the institutionalized spouse expressly indicates his intention to effect such a transfer. Absent such an expression of intent, the protected period will not extend beyond the end of the month in which eligibility is being determined. The department may extend the protected period if it finds an extension is necessary.

§ 2.15. Exception to protected period of eligibility.

If, at the time of an initial determination of eligibility, a community spouse has title to resources equal to or exceeding his community spouse resource allowance, no protected period of eligibility shall exist. In this circumstance, an institutionalized spouse may transfer resources in any amount to the community spouse, pursuant to § 1917 of the Social Security Act, but there shall be no protected period of eligibility for doing so.

§ 2.16. Additional resources acquired during protected period of eligibility.

If a couple obtains additional resources during a protected period of eligibility, the additional resources shall be exempt during the protected period if:

1. The new resources combined with other resources that the institutionalized spouse intends to retain do not exceed the appropriate Medicaid resource limit for one person, or

2. The institutionalized spouse intends to transfer the new resources during the protected period of eligibility to the community spouse, and the community spouse's resources are less than the

community spouse resource allowance.

§ 2.17. Resources transferred pursuant to § 1917 of the Act.

Provided transfers are made within one month of the initial determination of eligibility, resources held by an institutionalized spouse shall not be counted in determining continuing eligibility when § 1917 transfers are made to parties for which there is no penalty for failure to receive equitable value, or transfer for which equitable value is received.

§ 2.18. Resource eligibility determinations in retroactive periods.

#### A. First application for Medicaid.

In each of the three months preceding an institutionalized spouse's first application for Medicaid in the current continuous period of institutionalization for which resource eligibility is to be determined, the community spouse resource allowance shall be deducted from the couple's combined countable resources.

#### B. Later applications for Medicaid.

In later applications for the same period of institutionalization, including retroactive months, the community spouse resource allowance shall not be deducted for the couple's combined countable resources except in the first month in the retroactive period for which eligibility is being determined.

§ 2.19. Eligibility for community spouses and other family members.

Resources are considered under the eligibility rules which would apply to the community spouse and other family members, regardless of the rules governing the institutionalized spouse.

### PART III. POST-ELIGIBILITY PROCESS.

#### Article 1. General.

§ 3.1. Applicability.

The post-eligibility process contained in Part III of these regulations shall apply to persons living in a nursing facility and to persons receiving services under home and community-based waivers. This process determines how much such persons contribute to the cost of their institutional care or waiver services.

#### Article 2. Income.

§ 3.2. Determining [ of ] income.

A couple's income shall be determined as follows, without regard to state laws governing community property or division of marital property:

1. Income from nontrust property. Unless a department hearing officer determines that the institutionalized spouse has proven to the contrary by a preponderance of the evidence:

a. Income paid to one spouse belongs to that spouse;

b. Each spouse owns one-half of all income paid to both spouses jointly;

c. Each spouse owns one-half of any income which has no instrument establishing ownership;

d. Income paid in the name of either spouse, or both spouses and at least one other party, shall be considered available to each spouse in a proportionate share. When income is paid to both spouses and each spouse's individual interest is not specified, consider one-half of their joint interest in the income as available to each spouse.

2. Income from trust property. Ownership of trust property shall be determined pursuant to the State Plan, except as follows:

a. Each member of a couple owns the income from trust property in accordance with the trust's specific terms.

b. If a trust instrument is not specific as to the ownership interest in income, ownership shall be determined as follows:

(1) Income paid to one spouse belongs to that spouse;

(2) One-half income paid to both spouses shall be considered available to each spouse;

(3) Income from a trust paid in the name of either spouse, or both spouses and at least one other party, shall be considered available to each spouse in a proportionate share. When income from a trust is paid to both spouses and each spouse's individual interest is not specified, consider one-half of their joint interest in the income as available to each spouse.

#### Article 3. Patient Pay.

§ 3.3. Applicability.

After all appropriate deductions pursuant to §§ 3.4, 3.5, and 3.6 have been made from an institutionalized spouse's gross monthly income pursuant to this article, the balance

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shall constitute the amount the institutionalized spouse shall pay for institutional or waiver services.

§ 3.4. Mandatory deductions from institutionalized spouse's income.

The following amounts shall be deducted from the institutionalized spouse's gross monthly income:

1. A personal needs allowance of \$30; and
2. The community spouse maintenance allowance as calculated pursuant to § 3.5; and
3. The family maintenance allowance, if any, as calculated pursuant to § 3.6; and
4. Incurred medical and remedial care expenses recognized under State law, not covered under the State Plan and not subject to third party payment.

§ 3.5. Community spouse maintenance allowance.

A. The community spouse maintenance allowance shall be the greatest of the following amounts:

1. The total of the community spouse maintenance needs standard and the excess shelter allowance; or
2. An amount set in a spousal support court order; or
3. An amount determined necessary by a department hearing officer because of exceptional circumstances resulting in extreme financial duress.

B. Deductions are not made from the income of the institutionalized spouse when the allowances are not actually made available to the community spouse.

§ 3.6. Family members maintenance needs allowance.

A. An amount equal to 1/3 of the minimum monthly standard for the community spouse, without regard to excess shelter allowances, minus each family member's income, shall be deducted for the maintenance of each family member.

B. This allowance is to be deducted regardless of whether the institutionalized spouse actually makes the allowance available to the family member.

## PART IV. APPEALS.

### Article 1. General.

§ 4.1. Applicability.

The appeals process contained in Part IV of these regulations shall apply to appeals of initial determinations

and redeterminations of resources and income amount and allowances made in connection with applications for Medicaid benefits by spouses institutionalized for a continuous period on or after September 30, 1989, or receiving waived services for a continuous period on or after September 30, 1989, pursuant to existing Client Appeals regulations.

## Article 2. Notification.

§ 4.2. Notices.

Written notices are to be provided to the institutionalized spouse and the community spouse advising them of:

1. The amounts deducted for spousal and family allowances used in the post-eligibility calculation; and
2. Their rights to appeal the amounts deducted in the calculations for determining the spousal and family allowances used in the post-eligibility calculation.

§ 4.3. Regulatory authority.

Hearings and appeals held for the purpose of § 4.1 are consistent with regulations at 42 CFR § 431 Subpart E.

§ 4.4. Hearing officer authority.

Through the appeals process applicable as described in § 4.1 of these regulations, hearing officers shall prescribe appropriate increases in spousal maintenance allowances in the event they determine that exceptional circumstances exist which cause financial duress to the community spouse.

\* \* \* \* \*

**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** State Plan for Medical Assistance Relating to Undue Hardship.  
**VR 460-03-2.6109. Transfer of Resources.**  
**VR 460-04-2.6109. Transfer of Resources.**

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

**Effective Date:** October 1, 1991.

**Summary:**

This action amends the Plan for Medical Assistance to

conform to HCFA's requirements concerning the placement of undue hardship language.

*This regulatory action affects Attachment 2.6 A, Supplements 9 (Transfer of Resources) and 13 (Spousal Impoverishment) and state regulations 460-04-2.6109 and 460-04-8.6.*

*HCFA issued a Regional Medicaid Letter 25-90 regarding clarification of its policy of state acknowledgement of the undue hardship provisions of the Social Security Act §§ 1902(k)(4), 1917(c)(2)(D) and 1924(c)(3)(C). This regional Medicaid Letter supplied State Plan language for incorporation that recognizes the undue hardship provisions. Previous HCFA policy had been to require the states to define undue hardship provisions in their State Plans.*

*The Act §§ 1917(c)(2)(D) and 1924(c)(3)(C) prohibit recipients from being found ineligible for Medicaid when to do so would cause undue hardship. DMAS is, therefore, moving its existing policy on undue hardship as relates to transfer of resources (Supplement 9) and spousal impoverishment (Supplement 13) to state regulations and adding the language prescribed in the HCFA Regional Medicaid Letter 25-90. Only the transfer of resources regulation is addressed in this regulatory package. Spousal impoverishment provisions are contained in another regulatory action. Since the Commonwealth has no hardship provisions of § 1902(k) Medicaid qualifying trusts, no changed language is herein proposed.*

*There is no fiscal impact for this change because programmatic policies are not changing.*

## **VR 460-03-2.6109. Transfer of Resources.**

### **§ 1. Transfer of resources.**

1902(f) and 1917 of the Act.

The agency provides for the denial of eligibility by reason of disposal of resources for less than fair market value. See pages 8 and 9 of this Supplement for procedures applicable to all transfers of resources.

A. Except as noted below, the criteria for determining the period of ineligibility are the same as criteria specified in § 1613(c) of the Social Security Act (Act).

1. Transfer of resources other than the home of an individual who is an inpatient in a medical institution.

a.  The agency uses a procedure which provides for a total period of ineligibility greater than 24 months for individuals who have transferred resources for less than fair market value when the uncompensated value of disposed of resources exceeds \$12,000. This period bears a reasonable relationship to the uncompensated value of the

transfer. The computation of the period and the reasonable relationship of this period to the uncompensated value is described as follows:

(See pages 8 and 9 of this supplement. This transfer of resources rule includes the transfer of the former residence of an inpatient in a medical institution.)

b.  The period of ineligibility is less than 24 months, as specified below:

c.  The agency has provisions for waiver of denial of eligibility in any instance where the state determines that a denial would work an undue hardship.

2. Transfer of the home of an individual who is an inpatient in a medical institution.

A period of ineligibility applies to inpatients in an SNF, ICF or other medical institution as permitted under § 1917(c)(2)(B)(i).

a. Subject to the exceptions on page 2 of this supplement, an individual is ineligible for 24 months after the date on which he disposed of the home. However, if the uncompensated value of the home is less than the average amount payable under this plan for 24 months of care in an SNF, the period of ineligibility is a shorter time, bearing a reasonable relationship (based on the average amount payable under this plan as medical assistance for care in an SNF) to the uncompensated value of the home as follows:

b.  Subject to the exceptions on page 2 of this supplement, if the uncompensated value of the home is more than the average amount payable under this plan as medical assistance for 24 months of care in an SNF, the period of ineligibility is more than 24 months after the date on which he disposed of the home. The period of ineligibility bears a reasonable relationship (based upon the average amount payable under this plan as medical assistance for care in an SNF) to the uncompensated value of the home as follows:

No individual is ineligible by reason of subdivision A 2 if:

(1) A satisfactory showing is made to the agency (in accordance with any regulations of the Secretary of Health and Human Services) that the individual can reasonably be expected to be discharged from the medical institution and to return to that home;

(2) Title to the home was transferred to the individual's spouse or child who is under age 21, or (for states eligible to participate in the state program under title XVI of the Social Security Act) is blind or permanently and totally disabled or (for

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states not eligible to participate in the state program under title XVI of the Social Security Act) is blind or disabled as defined in § 1614 of the Act;

(3) A satisfactory showing is made to the agency (in accordance with any regulations of the Secretary of Health and Human Services) that the individual intended to dispose of the home either at fair market value or for other valuable consideration; or

(4) The agency determines that denial of eligibility would work an undue hardship.

### 3. 1902(f) States

□ Under the provisions of § 1902(f) of the Social Security Act, the following transfer of resource criteria more restrictive than those established under § 1917(c) of the Act, apply:

B. Other than those procedures specified elsewhere in the supplement, the procedures for implementing denial of eligibility by reason of disposal of resources for less than fair market value are as follows:

1. If the uncompensated value of the transfer is \$12,000 or less: the individual is ineligible for two years from the date of the transfer.

2. If the uncompensated value of the transfer is more than \$12,000: the individual is ineligible for two years, plus an additional 2 months for every \$1,000 or part thereof of uncompensated value over \$12,000, from the date of transfer.

### § 2. Property transfer.

An applicant for or recipient of Medicaid is ineligible for Medicaid if he transferred or otherwise disposed of his legal equitable interest in real or personal property for less than fair market value. Transfer of property precludes eligibility for two years from the date of the transfer if the uncompensated value of the property was \$12,000 or less. If the uncompensated value was over \$12,000, an additional two months of ineligibility will be added for each \$1,000 of additional uncompensated value (see following table). "Uncompensated value" means the current market value of the property, or equity in the property, at the time it was transferred, less the amount of compensation (money, goods, services, etc.) received for the property.

Exceptions to this provision are:

1. When the transfer was not made with the intent of establishing or retaining eligibility for Medicaid or SSI. Any transfer shall be presumed to have been for the purpose of establishing or retaining eligibility for Medicaid or SSI unless the applicant/recipient furnishes convincing evidence to establish that the transfer was exclusively for some other purpose.

a. The applicant/recipient has the burden of establishing, by objective evidence of facts rather than statement of subjective intent, that the transfer was exclusively for another purpose.

b. Such evidence shall include evidence that adequate resources were available at the time of the transfer for the applicant/recipient's support and medical care including nursing home care, considering his age, state of health, and life expectancy.

c. The declaration of another purpose shall not be sufficient to overcome this presumption of intent.

d. The establishment of the fact that the applicant/recipient did not have specific knowledge of Medicaid or SSI eligibility policy is not sufficient to overcome the presumption of intent.

2. Retention of the property would have no effect on eligibility unless the property is a residence of an individual in a nursing home for a temporary period.

3. When transfer of the property resulted in compensation (in money, goods, or services) to the applicant/recipient which approximated the equity value of the property.

4. When the receiver of the property has made payment on the cost of the applicant/recipient's medical care which approximates the equity value of the property.

5. When the property owner has been a victim of another person's actions, except those of a legal guardian, committee, or power-of-attorney, who obtained or disposed of the property without the applicant/recipient's full understanding of the action.

6. When prior to October 1, 1982, the Medicaid applicant transferred a prepaid burial account (plan) which was valued at less than \$1,500 for the purpose of retaining eligibility for SSI, and was found ineligible for Medicaid solely for that reason. The applicant, after reapplying, may be eligible regardless of the earlier transfer of a prepaid burial account if the applicant currently meets all other eligibility criteria.

7. When the property is transferred into an irrevocable trust designated solely for the burial of the transferor or his spouse. The amount transferred into the irrevocable burial trust, together with the face value of life insurance and any other irrevocable funeral arrangements, shall not exceed \$2,000 prior to July 1, 1988, and shall not exceed \$2,500 after July 1, 1988.

### PERIOD OF INELIGIBILITY DUE TO TRANSFER OF PROPERTY TABLE

Uncompensated Value of Property . Period of Ineligibility

|           |   |          |
|-----------|---|----------|
| \$ 0      | - | \$12,000 |
| 24 months |   |          |
| 12,000.01 | - | 13,000   |
| 26 months |   |          |
| 13,000.01 | - | 14,000   |
| 28 months |   |          |
| 14,000.01 | - | 15,000   |
| 30 months |   |          |
| 15,000.01 | - | 16,000   |
| 32 months |   |          |

For each additional \$1,000 add two months of ineligibility.

The preceding policy applies to eligibility determinations on and before June 30, 1988. The following policy applies to eligibility determinations on and after July 1, 1988.

1. *The state plan provides for a period of ineligibility for nursing facility services, equivalent services in a medical institution, and home and community-based services in the case of an institutionalized individual (as defined in paragraph (3) of § 1917 (c) who, disposed of resources for less than fair market value, at any time during or after the 30-month period immediately before the date the individual becomes an institutionalized individual (if the individual is entitled to medical assistance under the state plan on that date) or, if the individual is not entitled on the date of institutionalization, the date the individual applies for assistance while an institutionalized individual.*

a. 30 months, or

b. The total uncompensated value of the resources so transferred, divided by the average cost, to a private patient at the time of application, of nursing facility services in the state.

2. An individual shall not be ineligible for medical assistance by reason of subdivision 1 to the extent that:

a. The resources transferred were a home and title to the home was transferred to:

(1) The spouse of such individual;

(2) A child of such individual who is under age 21, or is blind or disabled as defined in § 1614 of the Social Security Act;

(3) A sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date *the individual becomes an institutionalized individual*; or

(4) A son or daughter of such individual (other than

a child described in subdivision 2) who was residing in such individual's home for a period of at least two years immediately before the date *the individual becomes an institutionalized individual*; and who (as determined by the state) provided care to such individual which permitted such individual to reside at home rather than in such an institution or facility;

b. The resources were transferred to (or to another for the sole benefit of) the community spouse as defined in § 1924(h)(2) of the *Social Security Act*, or to *the individual's child* who is under age 21, or is blind or disabled as defined in § 1614 of the *Social Security Act*.

c. A satisfactory showing is made to the state (in accordance with any regulations promulgated by the Secretary of the United States Department of Health and Human Services) that:

(1) The individual intended to dispose of the resources either at fair market value, or for other valuable consideration. To show intent to receive adequate compensation, the individual must provide objective evidence that:

(a) For real property, the individual made an initial and continuing effort to sell the property according to the "reasonable effort to sell" provisions of the Virginia Medicaid State Plan;

(b) For real or personal property, the individual made a legally binding contract that provided for receipt of adequate compensation in a specified form (goods, services, money, etc.) in exchange for the transferred property;

(c) An irrevocable burial trust of \$2,500 or less was established on or after July 1, 1988, as compensation for the transferred money;

(d) An irrevocable burial trust over \$2,500 was established on or after July 1, 1988, and the individual provides objective evidence to show that all funds in the trust are for identifiable funeral services; or

(2) The resources were transferred exclusively for a purpose other than to qualify for medical assistance; the individual must provide objective evidence that the transfer was exclusively for another purpose and the reason for the transfer did not include possible or future Medicaid eligibility; or

(3) The State determines that denial of eligibility would work an undue hardship.

(a) The individual must provide written documentation to substantiate the circumstances of the transfer and the claim of undue hardship.



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(b) The individual must provide written documentation that the resources transferred without adequate compensation cannot be recovered.

(c) The individual must provide written documentation to clearly substantiate the immediate adverse impact of the denial of Medicaid coverage of nursing facility services due to the uncompensated transfer.

*Consistent with § 1917(c)(2)(D), an institutionalized spouse who (or whose spouse) transferred resources for less than fair market value shall not be found ineligible for nursing facility service, for a level of care in a medical institution equivalent to that of nursing facility services, or for home and community-based services where the state determines that denial of eligibility would work an undue hardship under the provision of § 1917(c)(2)(D) of the Social Security Act.*

3. In this section, the term "institutionalized individual" means an individual who is an inpatient in a nursing facility, or who is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility, or who is described in § 1902 (a)(10)(A)(ii)(VI).

4. In this section, the individual's home is defined as the house and lot used as the principal residence and all contiguous property up to ~~\$5,000,000~~ \$5,000 .

## **VR 460-04-2.8109. Transfer of Resources.**

*§ 1. When determining the eligibility of an applicant, in cases where the state determines that denial of eligibility would work an undue hardship:*

*1. The individual must provide written documentation to substantiate the circumstances of the transfer and the claim of undue hardship.*

*2. The individual must provide written documentation that the resources transferred without adequate compensation cannot be recovered.*

*3. The individual must provide written documentation to clearly substantiate the immediate adverse impact of the denial of Medicaid coverage of nursing facility services due to the uncompensated transfer.*

# EMERGENCY REGULATIONS

## STATE WATER CONTROL BOARD

**Title of Regulations:** VR 680-14-09. Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day.

**Statutory Authority:** §§ 62.1-14.15(7), 62.1-14.15(8), 62.1-14.15(9), 62.1-14.15(10), 62.1-14.15(14), 62.1-44.18, 62.1-44.19, 62.1-44.18.20, and 62.1-44.18.21 of the Code of Virginia and 33 USC 1251 et seq.

**Effective Date:** July 12, 1991 through July 11, 1992.

### Preamble:

VR 680-14-09 establishes a General VPDES Permit for the category of point source discharges of treated domestic sewage of less than or equal to 1,000 gallons per day. At the present time, all owners wishing to discharge pollutants from point sources to surface waters of the Commonwealth of Virginia must obtain individual VPDES permits. Some of these permits are for minor dischargers which have little or no potential to adversely impact the receiving state waters. A General Permit is issued by the state for a category of discharges instead of to an individual discharge. Anyone who fits into the category covered by the General Permit and who agrees to abide by its conditions may apply for coverage under it instead of applying for an individual permit. Issuance of General VPDES Permits would reduce the application costs and paperwork burden for the dischargers. It will also reduce the administrative time and burden for the Board in processing individual permits. Thus, it will improve the administrative efficiency of the Board's permitting program and allow staff resources to be concentrated on individual VPDES permits which have more potential for impacting water quality in Virginia.

On May 20, 1991 the Regional Administrator of EPA Region III signed the modification to Virginia's National Pollutant Discharge Elimination System (NPDES) permit program delegation which authorized the Water Control Board to issue General VPDES Permits.

General Permits may be issued for categories of dischargers located throughout the Commonwealth that: Involve the same or similar types of operations; Discharge the same or similar types of wastes; Require the same effluent limitations or operating conditions; and Require the same or similar monitoring. As with an individual permit, the effluent limits in a General Permit will be set to protect the quality of the waters receiving the discharge. Also, no discharge would be covered by the General Permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances.

Sewage treatment plants which are designed for 1,000 gallons per day or less of waste are typically installed at individual homes when central sewer is not available and the soil conditions prohibit the use of septic tanks and drainfields. They may also be installed to treat domestic sewage from duplexes, churches, gas stations, etc. where sewage flow is low and other treatment alternatives are not available. These treatment plants have minimal impact on water quality. There are approximately 1,000 individual VPDES permits in effect for discharges in this category. This is roughly one third of the total permits issued by the Board for all discharges in Virginia. In spite of their numbers, if all the flows from these facilities statewide were put together, the total discharge would have less pollution load than one small town's sewage treatment plant.

### Nature of the Emergency:

The Board proposes to adopt a regulation for the issuance of a General Permit for domestic sewage discharges less than or equal to 1,000 gallons per day. The discharges could be located on any surface waters within the boundaries of the Commonwealth of Virginia, except those where Board regulations or policies prohibit such discharges. The draft General Permit requires that all covered facilities meet the same effluent limitations and monitoring requirements.

In 1990, the General Assembly amended Sections 32.1-163 and 32.1-164 of the Code of Virginia to address the responsibilities of the State Board of Health as they relate to sewage disposal and inspections of alternative discharging sewage systems. These systems are defined as discharges of treated sewage regulated by a General VPDES Permit issued by the Water Control Board to individual single family dwellings with flows less than or equal to 1,000 gallons per day. The Code mandates regular inspection of such systems and it empowers the Board of Health to establish requirements for maintenance contracts for these facilities. It also provides that upon final adoption of a General VPDES Permit by the Water Control Board, the Board of Health shall assume the responsibility for permitting alternative discharging sewage systems.

The Department of Health cannot assume responsibility for permitting alternative discharging sewage systems - including promulgation of implementing regulations - until the Water Control Board receives EPA approval of its General Permit Program and a General Permit for single family homes. EPA approved the General Permit Program on May 20, 1991. The Water Control Board submitted a draft General Permit for domestic sewage discharges of less than or equal to 1,000 gallons per day to EPA for their review. This General Permit would cover the single family home discharges. By letter dated June 19, 1991, EPA approved the General Permit. The

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Board must adopt the General Permit as a regulation because it covers a class of discharges rather than an individual source. Once this is accomplished, the administration of the program as it relates to single family homes may be performed by the Health Department.

## Necessity For Action:

Every discharge of treated wastewater to surface waters must have a permit according to federal and state law. Because domestic sewage discharges of less than or equal to 1,000 gallons per day are low impact point sources, they have a lower priority than other discharges when limited manpower resources are allocated to issuing permits. The General Permit is one way in which such discharges can be permitted with minimal resource commitment on the part of regulatory agencies and the regulated community.

In some cases, the low priority assigned to these small discharges has resulted in delays in issuing permits. These delays can impact a landowner's ability to construct and occupy a new home if the sewage treatment plant for the site is not permitted. Coverage under a General Permit would be a simpler and less expensive process than applying for an individual VPDES permit and fewer delays would be expected.

The Water Control Board recognizes the utility of this General Permit and the benefits it may bring to the regulated community. Without it the Department of Health cannot accomplish their legislative mandate for regulating single family dwelling sewage discharges. In order to implement the General Permit it must be adopted as a regulation. A number of home owners have applications pending at this time. Without adoption of the emergency regulation, applications will not be acted upon under the current system within a reasonable period of time. By adopting the General Permit as an emergency regulation, the Board and the Health Department can begin covering these small discharges immediately.

## Summary:

This regulation will establish a General VPDES Permit for the category of domestic sewage discharges with flows of less than or equal to 1,000 gallons per day. This General Permit will expedite the process of issuing permits to this category of discharges and reduce the regulatory burden on the permittee compared to the process of issuing individual VPDES permits. The regulation will allow the Department of Health to implement their legislative mandate to control the discharges from alternative discharging sewage systems. It will also allow the Water Control Board to devote more resources to the permitting of pollution sources with greater potential for water quality impacts.

This emergency regulation will be enforced under applicable statutes and will remain in full force and effect for one year from the effective date, unless sooner modified or vacated or superseded by permanent regulations adopted pursuant to the Administrative Process Act.

The State Water Control Board will receive, consider, and respond to petitions by any interested persons at any time for the reconsideration or revision of this regulation.

It is so ordered.

BY:  
/s/ Richard N. Burton  
Executive Director  
Date: June 27, 1991

APPROVED BY:  
/s/ Elizabeth H. Haskell  
Secretary of Natural Resources  
Date: July 1, 1991

APPROVED BY:  
/s/ Lawrence Douglas Wilder  
Governor of the Commonwealth  
Date: July 11, 1991

FILED WITH:  
/s/ Joan W. Smith  
Registrar of Regulations  
Date: July 12, 1991

VR 680-14-09. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day.

## Section 1. Definitions

The words and terms used in this regulation shall have the meanings defined in the State Water Control Law and VR 680-14-01 (Permit Regulation) unless the context clearly indicates otherwise, except that for the purposes of this regulation:

"Domestic Sewage" means the water-carried human wastes from residences, buildings, industrial establishments or other places.

## Section 2. Purpose

This General Permit regulation governs domestic sewage discharges to surface waters from treatment works that discharge less than or equal to 1000 gallons per day on a yearly average.

## Section 3. Authority for Regulation

The authority for this regulation is pursuant to the Stat

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Water Control Law Sections 62.1-44.15., (7), (8), (9), (10), (14); 44.18; 44.19; 44.20; 44.21 of the Code of Virginia and 33 USC 1251 et seq. and Section 6.2 of the Permit Regulation (VR 680-14-01).

## Section 4. Delegation of Authority

The Executive Director, or his designee, may perform any act of the Board provided under this regulation, except as limited by Section 62.1-44.14 of the Code of Virginia.

## Section 5. Effective Date of the Permit

This General Permit will become effective upon filing with the Registrar of Regulations and completion of public notice. This General Permit will expire five years from the effective date. This General Permit is effective as to any covered owner upon compliance with all the provisions of Section 6 and the receipt of this VPDES General Permit.

## Section 6. Authorization to Discharge

Any owner of a treatment works governed by this General Permit is hereby authorized to discharge treated domestic sewage to surface waters of the Commonwealth of Virginia provided that the owner files the Registration Statement of Section 7, complies with the effluent limitations and other requirements of Section 8, and provided that the owner has complied with all the following conditions:

### A. Individual Permit

The owner shall not have been required to obtain an individual VPDES permit as may be required in Section 6.2.B. of the Permit Regulation.

### B. Prohibited Discharge Locations

The owner shall not be authorized by this General Permit to discharge to surface waters where other Board regulations or policies prohibit such discharges.

### C. Central Sewage Facilities

The owner shall not be authorized by this General Permit to discharge to surface waters where there are central sewage facilities reasonably available, as determined by the Board.

### D. Local Government Notification

The owner shall obtain notification from the local government body of the county, city or town in which the discharge is to take place that the location and operation of the discharging facility is consistent with all ordinances adopted pursuant to Chapter 11 (Section 15.7-427 et seq) of Title 15.1.

## E. Onsite Sewage Disposal System

The owner shall have applied to the Department of Health for an onsite sewage disposal system permit and that system has been evaluated and found unsatisfactory by the Department of Health.

Receipt of this VPDES General Permit does not relieve any owner of the responsibility to comply with any other statute or regulation, including applicable regulations of the Department of Health adopted pursuant to Sections 32.1-163 and 32.1-164 of the Code of Virginia.

## Section 7. Registration Statement

The owner shall file a complete VPDES General Permit Registration Statement for domestic sewage discharges of less than or equal to 1000 gallons per day. The required registration statement shall be in the following form:

**VIRGINIA POLLUTANT DISCHARGE ELIMINATION  
SYSTEM  
GENERAL PERMIT REGISTRATION STATEMENT  
FOR DOMESTIC SEWAGE DISCHARGES  
LESS THAN OR EQUAL TO 1,000 GALLONS PER  
DAY**

1. Name of Facility/Residence .....
2. Location of Facility (City or County) .....
3. Facility Owner .....  
Last Name      First Name      M.I.
4. Address of Owner .....  
Street      City      State      Zip
5. Phone .....  
Home      Work
6. Location of Discharge (stream into which discharge occurs) .....  

Attach a topographic or other map which indicates discharge point, property boundaries, wells, downstream houses, etc.
7. Amount of Discharge (gallons per day) .....
8. Are any pollutants other than domestic sewage to be discharged?  
 Yes     No    If yes, please indicate what:
9. Attach a diagram of the existing or proposed sewage treatment system, including the location of the facility/residence and the individual sewage treatment units.
10. Proposed facilities, additions of outfalls at existing facilities or any facilities which have not previously been

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issued a valid VPDES permit must attach to this Registration Statement notification from the local government body of the county, city or town in which the discharge is to take place that the location and operation of the discharging facility is consistent with all ordinances adopted pursuant to Chapter 11 (Section 15.7-427 et seq) of Title 15.1 of the Code of Virginia.

11. Attach a notification from the Department of Health that an on-site sewage disposal system permit has been applied for and that the system has been evaluated and found unsatisfactory by the Department of Health.

12. Are central sewage facilities available to this facility?  
 Yes  No If yes, please explain: .....

13. Does this facility currently have a VPDES permit?  
 Yes  No If yes, please provide Permit Number: .....

### Certification:

I hereby grant to duly authorized agents of the State Water Control Board, upon presentation of credentials, permission to enter the property for the purpose of determining the suitability of the General Permit. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Signature: ..... Date: .....

For agency use only:

Accepted/Not Accepted ..... Date: .....

### Section 8. General Permit

Any owner whose registration statement is accepted by the Executive Director or his designee will receive the following permit and shall comply with the requirements therein and be subject to all requirements of Section 6.2 of the Permit Regulation (VR 680-14-01).

General Permit No.: VAG000001  
Effective Date:  
Expiration Date:

GENERAL PERMIT FOR DOMESTIC SEWAGE  
DISCHARGES  
LESS THAN OR EQUAL TO 1,000 GALLONS PER

DAY

## AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of domestic sewage discharges less than or equal to 1,000 gallons per day are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those where Board Regulations or Policies prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements, Part II - Monitoring and Reporting Requirements, and Part III - Management Requirements, as set forth herein.

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## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number 001

Such discharges shall be limited and monitored by the permittee as specified below:

| <u>EFFLUENT CHARACTERISTICS</u> | <u>DISCHARGE LIMITATIONS</u>     |                                  | <u>MONITORING REQUIREMENTS</u> |                    |
|---------------------------------|----------------------------------|----------------------------------|--------------------------------|--------------------|
|                                 | <u>Instantaneous<br/>Minimum</u> | <u>Instantaneous<br/>Maximum</u> | <u>Frequency</u>               | <u>Sample Type</u> |
| Flow (MGD)*                     | NA                               | NL                               | 1/year                         | Estimate           |
| BOD <sub>5</sub>                | NA                               | 30 mg/l                          | 1/year                         | Grab               |
| Suspended Solids                | NA                               | 30 mg/l                          | 1/year                         | Grab               |
| Fecal Coliform Bacteria**       | NA                               | 200/100 ml                       | 1/year                         | Grab               |
| Total Residual Chlorine         | NA                               | Non-detectable                   | 1/year                         | Grab               |
| pH (standard units)             | 6.0                              | 9.0                              | 1/year                         | Grab               |
| Dissolved Oxygen                | 5 mg/l                           | NA                               | 1/year                         | Grab               |

NL = No Limitation, monitoring required

NA = Not Applicable

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

\* The design flow of this treatment facility is less than or equal to 1,000 gallons per day

\*\* Continuous disinfection capability shall be provided in order to maintain this effluent limit.

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## PART II MONITORING AND REPORTING

### A. Sampling and Analysis Methods

1. Samples and measurements taken as required by this permit shall be representative of the volume and nature of the monitored activity.
2. Unless otherwise specified in the permit all sample preservation methods, maximum holding times and analysis methods for pollutants shall comply with requirements set forth in Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act as published in the Federal Register (40 CFR 136).
3. The sampling and analysis program to demonstrate compliance with the permit shall at a minimum, conform to Part I of this permit.
4. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

### B. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

1. The date, exact place and time of sampling or measurements;
2. The person(s) who performed the sampling or measurements;
3. The dates analyses were performed;
4. The person(s) who performed each analysis;
5. The analytical techniques or methods used; and
6. The results of such analyses and measurements.

### C. Monitoring Records

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation, shall be retained for five (5) years from the date of the sample, measurement, report or application. Such records shall be made available to the Board upon request.

### D. Reporting Requirements

The permittee shall report any unpermitted, unusual or extraordinary discharge which enters or could be expected

to enter State waters. The permittee shall provide the following information regarding each such discharge immediately, that is as quickly as possible upon discovery, however, in no case later than 24 hours:

1. A description and cause of noncompliance;
2. The period of noncompliance, including exact dates and times and/or the anticipated time when the noncompliance will cease; and
3. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

A written submission covering these points shall be provided within five days of the time the permittee becomes aware of the circumstances covered by this paragraph.

### E. Signatory Requirements

Any registration statement, report, or certification required by this permit shall be signed as follows:

#### 1. Registration Statement

a. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a Municipality, State, Federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a Federal, municipal, or State agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency).

c. For a partnership or sole proprietorship, by a general partner or proprietor respectively.

2. Reports - All reports required by permits and other information requested by the Board shall be signed by:

- a. One of the persons described in subparagraph 1., a., b., or c. of this section; or
- b. A duly authorized representative of that person.

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person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in subparagraph 1.a., b., or c. of this section; and

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

(3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the Board prior to or together with any separate information, or registration statement to be signed by an authorized representative.

3. Certification - Any person signing a document under paragraph 1. or 2. of this section shall make the following certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

## PART III MANAGEMENT REQUIREMENTS

### A. Change in Discharge or Management of Pollutants

1. Any permittee proposing a new discharge or the management of additional pollutants shall submit a new registration statement at least 180 days prior to commencing erection, construction, or expansion or employment of new pollutant management activities or processes at any facility. There shall be no commencement of treatment or management of pollutants activities until a permit is received.

2. All discharges or pollutant management activities authorized by this permit shall be made in accordance with the terms and conditions of the permit. The permittee shall submit a new registration statement 180 days prior to all expansions, production increases, or process modifications, that will result in new or increased pollutants. The discharge or management of

any pollutant more frequently than, or at a level greater than that identified and authorized by this permit, shall constitute a violation of the terms and conditions of this permit.

### B. Treatment Works Operation and Quality Control

1. Design and operation of facilities and/or treatment works and disposal of all wastes shall be in accordance with the registration statement. If facility deficiencies, design and/or operational, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the permittee to correct such deficiencies.

2. All waste collection, control, treatment, management of pollutant activities and disposal facilities shall be operated in a manner consistent with the following:

a. At all times, all facilities and pollutant management activities shall be operated in a prudent and workmanlike manner so as to minimize upsets and discharges of excessive pollutants to State waters.

b. Maintenance of treatment facilities or pollutant management activities shall be carried out in such a manner that the monitoring and/or limitation requirements are not violated.

c. Collected sludges shall be stored in such a manner as to prevent entry of those wastes (or runoff from the wastes) into State waters.

### C. Adverse Impact

The permittee shall take all feasible steps to minimize any adverse impact to State waters resulting from noncompliance with any limitation(s) and/or conditions specified in this permit, and shall perform and report such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying limitation(s) and/or conditions.

### D. Duty to Halt, Reduce Activity or to Mitigate

1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. The permittee shall take all reasonable steps to minimize, correct or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

### E. Structural Stability

The structural stability of any of the units or parts of



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the facilities herein permitted is the sole responsibility of the permittee and the failure of such structural units or parts shall not relieve the permittee of the responsibility of complying with all terms and conditions of this permit.

## F. Bypassing

Any bypass ("Bypass - means intentional diversion of waste streams from any portion of a treatment works") of the treatment works herein permitted is prohibited.

## G. Compliance With State and Federal Law

Compliance with this permit during its term constitutes compliance with the State Water Control Law and the Clean Water Act.

Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other State law or regulation or under authority preserved by Section 510 of the Clean Water Act.

## H. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or Local Laws or regulations.

## I. Severability

The provisions of this permit are severable.

## J. Right of Entry

The permittee shall allow authorized State and Federal representatives, upon the presentation of credentials:

1. To enter upon the permittee's premises on which the establishment, treatment works, pollutant management activities, or discharge(s) is located or in which any records are required to be kept under the terms and conditions of this permit;
2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;
3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;
4. To sample at reasonable times any waste stream, discharge, process stream, raw material or by-product; and
5. To inspect at reasonable times any collection,

treatment, pollutant management activities or discharge facilities required under this permit.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging or involved in managing pollutants. Nothing contained herein shall make an inspection time unreasonable during an emergency.

## K. Transferability of Permits

This permit may be transferred to another person by a permittee if:

1. The current owner notifies the Board 30 days in advance of the proposed transfer of the title to the facility or property;
2. The notice includes a written agreement between the existing and proposed new owner containing a specific date of transfer of permit responsibility, coverage and liability between them; and
3. The Board does not within the 30-day time period notify the existing owner and the proposed owner of its intent to modify or revoke and reissue the permit.

Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

## L. Continuation of Expired General Permits

An expired general permit continues in force and effect until a new general permit is issued. Only those facilities authorized to discharge under the expiring general permit are covered by the continued permit.

## M. Public Access to Information

All information pertaining to permit processing or in reference to any source of discharge of any pollutant, shall be available to the public.

## N. Permit Modification

The permit may be modified when any of the following developments occur:

1. When a change is made in the promulgated standards or regulations on which the permit was based;
2. When an effluent standard or prohibition for a toxic pollutant must be incorporated in the permit in accordance with provisions of Section 307(a) of the Clean Water Act;
3. When the level of discharge of or management of a pollutant not limited in the permit exceeds applicable Water Quality Standards or Water Quality Criteria, or

the level which can be achieved by technology-based treatment requirements appropriate to the permittee;

## O. Permit Termination

After public notice and opportunity for a hearing, the general permit may be terminated for cause.

## P. When an Individual Permit May Be Required

The Board may require any owner authorized to discharge under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:

1. The discharger(s) is a significant contributor of pollution.
2. Conditions at the operating facility change altering the constituents and/or characteristics of the discharge such that the discharge no longer qualifies for a General Permit.
3. The discharge violates the terms or conditions of this permit.
4. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.
5. Effluent limitation guidelines are promulgated for the point sources covered by this permit.
6. A water quality management plan containing requirements applicable to such point sources is approved after the issuance of this permit.

This permit may be terminated as to an individual owner for any of the reasons set forth above after appropriate notice and an opportunity for a hearing.

## Q. When an Individual Permit May be Requested

Any owner operating under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. When an individual permit is issued to an owner the applicability of this general permit to the individual owner is automatically terminated on the effective date of the individual permit. When a General Permit is issued which applies to an owner already covered by an individual permit, such owner may request exclusion from the provisions of the General Permit and subsequent coverage under an individual permit.

## R. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

## S. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act or Sections 62.1-44.34:14 through 62.1-44.34:23 of the Law.

## T. Unauthorized Discharge of Pollutants

Except in compliance with this permit, it shall be unlawful for any permittee to:

1. Discharge into State waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such State waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.

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# STATE CORPORATION COMMISSION

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## STATE CORPORATION COMMISSION

AT RICHMOND, JULY 5, 1991

COMMONWEALTH OF VIRGINIA

At the relation of the

CASE NO. INS910044

STATE CORPORATION COMMISSION

Ex Parte: In the matter  
of adopting Rules Governing the  
Reporting of Cost Utilization Data  
Relating to Mandated Benefits and  
Mandated Providers

### ORDER ADOPTING REGULATION

WHEREAS, by order entered herein March 25, 1991, the Commission ordered that a hearing be held in the Commission's Courtroom on May 14, 1991, for the purpose of considering the adoption of a regulation proposed by the Bureau of Insurance ("Bureau") entitled "Rules Governing the Reporting of Cost Utilization Data Relating to Mandated Benefits and Mandated Providers";

WHEREAS, the Commission conducted the aforesaid hearing where it received the comments of interested persons and at the conclusion of the hearing the Commission ordered that the record remain open until May 31, 1991, in order for interested persons to file additional comments to the regulation for consideration by the Commission; and

THE COMMISSION, having considered the record herein, the comments of interested persons and the recommendations of the Bureau of Insurance, is of the opinion that the regulation should be adopted, with certain amendments;

THEREFORE, IT IS ORDERED that the regulation entitled "Rules Governing the Reporting of Cost Utilization Data Relating to Mandated Benefits and Mandated Providers" which is attached hereto and made a part hereof, should be, and it is hereby, ADOPTED to be effective October 1, 1991.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Theodore F. Adams, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, Richmond, Virginia 23219; Alan D. Albert, Esquire, Mays & Valentine, 1111 E. Main Street, Richmond, Virginia 23219; Jay W. DeBoer, Esquire, 16 East Tabb Street, Petersburg, Virginia 23803; Joan M. Gardner, Esquire, Blue Cross & Blue Shield of Virginia, P.O. Box 27401, Richmond, Virginia 23279; Mark E. Rubin, Esquire, P.O. Box 675, Richmond, Virginia 23206; William G. Shields, Esquire, P.O. Box 7439, Richmond, Virginia 23221; and the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who shall forthwith give

further notice of the adoption of the regulation by mailing a copy of this order together with a copy of the regulation to all insurers licensed to sell accident and sickness insurance in the Commonwealth of Virginia.

### RULES GOVERNING THE REPORTING OF COST AND UTILIZATION DATA RELATING TO MANDATED BENEFITS AND MANDATED PROVIDERS

#### § 1. Authority.

This Regulation is issued pursuant to the authority vested in the Commission under §§ 38.2-223 and 38.2-3419.1 of the Code of Virginia.

#### § 2. Purpose.

The purpose of this Regulation is to implement §§ 38.2-3419.1 of the Code of Virginia with respect to mandated health insurance benefits and providers:

This regulation is designed to:

- (a) provide the format for the reporting of costs and utilization associated with mandated benefits and providers;
- (b) describe the system for reporting such data;
- (c) define the information that is required to be reported; and
- (d) report general data related to costs and utilization associated with mandated benefits and mandated providers. However, due to the numerous means of filing claims through various procedure codes, the regulation limits the data requested to that information required to be submitted.

#### § 3. Effective Date.

This Regulation shall be effective on October 1, 1991.

#### § 4. Scope.

A. This regulation shall apply to every insurer, health services plan and health maintenance organization issuing policies of accident and sickness insurance or subscription contracts in this Commonwealth unless exempted by subsection B of this section.

B. This regulation does not apply to:

1. Insurers with Virginia annual written premiums for accident and sickness policies or subscription contracts of less than \$500,000; or
2. Cooperative nonprofit life benefit companies and mutual assessment life, accident and sickness insurers; or

3. Insurers that solely issue policies not subject to the mandated benefits or mandated provider requirements of §§ 38.2-3408 through 38.2-3419 and 38.2-4221 of the Code of Virginia.

## § 5. Definitions.

For the purposes of this Regulation:

A. "Earned Premiums" means the aggregate of the earned premium on all policies during a given period. The figure is calculated by adding the premiums written to the unearned premiums as of the beginning of the period and subtracting the unearned premiums as of the end of the period.

B. "Incurred Claims" means the total losses sustained whether paid or unpaid.

C. "Mandated Benefits" means those benefits that must be included or offered in policies delivered or issued for delivery in the Commonwealth as required by §§ 38.2-3408 through 38.2-3419 of the Code of Virginia.

D. "Mandated Providers" means those practitioners that are listed in §§ 38.2-3408 and 38.2-4221 of the Code of Virginia.

E. "Paid Claims" means the aggregate of loss payments, less deductions for all credits, except that no deduction is made for reinsurance recoveries, during a given period.

F. "Written Premiums" means gross premiums written minus premiums on policies cancelled and all returned premiums during a given period. Premiums paid to reinsurance carriers on reinsurance ceded are not deducted.

## § 6. Procedures.

A. Each insurer, health services plan or health maintenance organization shall submit a report for the preceding calendar year's claims on mandated benefits and mandated providers to the Bureau of Insurance by May 1, of each year beginning in 1992 unless exempted from this requirement by the provisions of subsection 4B of this Regulation.

B. The report shall be filed in the format prescribed in the Appendices to this Regulation.

The experience of group and non-group business shall be reported separately. Information shall be converted to the required coding systems by the insurer, health services plan or health maintenance organization prior to submission to the Bureau of Insurance.

## § 7. Penalties.

The failure to file a substantially complete and accurate report on cost and utilization data relating to mandated

benefits and mandated providers by the required day may be considered a willful violation and is subject to an appropriate penalty in accordance with §§ 38.2-218 and 38.2-219 of the Code of Virginia.

## § 8. 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.

## Appendix A. Data Reporting Instructions.

### A. Format and Timing of Reports

1. Cost and utilization data relating to mandated benefits and mandated providers must be submitted in the format prescribed in Appendix B of this Regulation and must be submitted no later than May 1 of each year beginning in 1992. A separate report is required for each insurer.

2. It is preferred that reports be filed by the use of machine readable computer diskettes, although written reports are acceptable provided that the exact format set forth in this regulation is utilized. The Automated Systems Section of the State Corporation Commission's Bureau of Insurance should be contacted at (804) 371-0394 for details regarding the computerized transmission of reports.

3. Insurers writing less than \$500,000 of accident and sickness premiums in a given year in the Commonwealth of Virginia are exempt from the reporting requirements for that year according to § 4 of this Regulation. Each insurer claiming an exemption for a given calendar year is responsible for notifying the Bureau of Insurance by completing and filing Page 1 of Form MB-1 prior to May 1, of the following year in lieu of a full report.

### B. Specifications for Cost and Utilization Data

1. Parts A and B of form MB-1 require specific claims and other actuarial data for individual business on Benefit Worksheet #1 and Provider Worksheet #1 and for group business on Benefit Worksheet #2 and Provider Worksheet #2. In determining the cost of each mandate, it is expected that actual claims or actuarial data will be used. Use claims for the CPT-4 or ICD-9CM Codes listed under each mandate in Appendix C of this Regulation to determine claim costs.

2. Part C of form MB-1 requires that a standard policy be defined and the annual premium disclosed. The portions of that premium attributable to Virginia's mandated benefits and providers are to be outlined with respect to single and family coverage within both

# State Corporation Commission

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the individual and group categories of business. Additional questions are also asked.

3. Part D of form MB-1 requires that utilization and claims data be disclosed for various providers and procedures.

4. The Physician's Current Procedural Terminology, Fourth Edition (CPT-4) and the Internal Classification of Disease 9th Revision Clinical Modification Third Edition (ICD-9CM) should be used as the basis for defining the information to be reported. Companies using a system other than CPT-4 or ICD-9CM should report the required data under a comparable system in use by that company that has been converted to CPT-4 or ICD-9CM.

5. Provider information should be reported by category of provider as they are listed. We are requesting information only for the providers mandated by § 38.2-3408 and the physician counterpart for that provider. Place of service can be identified by Uniform Billing Code Numbers (UB-82). A partial listing of UB-82 codes is included in Appendix C of this Regulation.

6. For data regarding group coverage, include only benefits paid for master contracts delivered or issued for delivery to group policyholders located in Virginia.

7. Report claim amounts separately for group and individual contracts.

8. For newborn children coverage data, include claims for newborns less than 32 days old.

9. For dependent children coverage, include all health care claims for dependents beyond the age for cut-off for coverage of dependents that is specified in your contracts in the absence of a physical handicap/mental retardation (identified in this manner will be those claims for dependents other than those routinely covered).

10. Claims may be reported on an "incurred claims" or "paid claims" basis. Indicate if not on a "paid claims" basis. The same basis must be used throughout the report.

11. All costs of health care provided because of a mandated benefit or mandated provider should be attributed to that mandate for Parts A, B and C.

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**Part A: Benefit Worksheet # 1 -- Individual**

| * Benefit                              | a<br>Number<br>of Visits | b<br>Number<br>of Days | c<br>Total<br>Claims<br>Payments | d<br>Number<br>of<br>Contracts | e<br>Claim<br>Cost Per<br>Contract | f<br>Annual<br>Administrative<br>Cost | g<br>Percent of<br>Total Health<br>Claims Paid |
|--|--------------------------|------------------------|----------------------------------|--------------------------------|------------------------------------|---------------------------------------|--|
| Dependent Children Coverage            |                          |                        |                                  |                                |                                    |                                       |  |
| Doctor to Include Dentist              |                          |                        |                                  |                                |                                    |                                       |  |
| Newborn Children                       |                          |                        |                                  |                                |                                    |                                       |  |
| Inpatient Mental / Emotional / Nervous |                          |                        |                                  |                                |                                    |                                       |  |
| Obstetrical Services                   |                          |                        |                                  |                                |                                    |                                       |  |
| Pregnancy from Rape / Incest           |                          |                        |                                  |                                |                                    |                                       |  |
| Mammography                            |                          |                        |                                  |                                |                                    |                                       |  |
| Child Health Supervision               |                          |                        |                                  |                                |                                    |                                       |  |

- \* include information and amounts paid on hospital bills and other providers
- a : number of provider and physician visits
  - b : number of days in facility ( if applicable )
  - c : total of claims paid for this mandate
  - d : number of contracts in force in Virginia
  - e : cost per contract = column c divided by column d
  - f : the administrative cost of complying with this mandate during the reporting year
  - g : claims paid for this benefit as a percentage of the total amount of health claims paid for Virginia policyholders by this company

B-2

**Benefit Worksheet # 2 -- Group**

| * Benefit                     | a<br>Number<br>of Visits | b<br>Number<br>of Days | c<br>Total<br>Claims<br>Payments | d<br>Number<br>of<br>Contracts | e<br>Claim<br>Cost Per<br>Contract | f<br>Annual<br>Administrative<br>Cost | g<br>Percent of<br>Total Health<br>Claims Paid |
|-------------------------------|--------------------------|------------------------|----------------------------------|--------------------------------|------------------------------------|---------------------------------------|--|
| Dependent Children Coverage   |                          |                        |                                  |                                |                                    |                                       |  |
| Doctor to Include Dentist     |                          |                        |                                  |                                |                                    |                                       |  |
| Newborn Children              |                          |                        |                                  |                                |                                    |                                       |  |
| Mental / Emotional / Nervous: |                          |                        |                                  |                                |                                    |                                       |  |
| Inpatient                     |                          |                        |                                  |                                |                                    |                                       |  |
| Outpatient                    |                          |                        |                                  |                                |                                    |                                       |  |
| Alcohol and Drug Dependence:  |                          |                        |                                  |                                |                                    |                                       |  |
| Inpatient                     |                          |                        |                                  |                                |                                    |                                       |  |
| Outpatient                    |                          |                        |                                  |                                |                                    |                                       |  |
| Obstetrical Services          |                          |                        |                                  |                                |                                    |                                       |  |
| Pregnancy from Rape / Incest  |                          |                        |                                  |                                |                                    |                                       |  |
| Mammography                   |                          |                        |                                  |                                |                                    |                                       |  |
| Child Health Supervision      |                          |                        |                                  |                                |                                    |                                       |  |

- \* include information and amounts paid on hospital bills and other providers (for all health care expenses incurred because of this mandate)
- a : number of provider and physician visits
  - b : number of days in facility ( if applicable )
  - c : total of claims paid for this mandate
  - d : number of certificates in Virginia (with this coverage)
  - e : cost per contract = column c divided by column d
  - f : the administrative cost of complying with this mandate during the reporting year
  - g : claims paid for this benefit as a percentage of the total amount of [all] health claims paid for Virginia policyholders by this company

B-3

# State Corporation Commission

## Part B: Provider Worksheet # 1 – Individual

| Provider                     | a<br>Number<br>of Visits | b<br>Total<br>Claims<br>Payments | c<br>Cost Per<br>Visit | d<br>Number<br>of<br>Contracts | e<br>Cost Per<br>Contract | f<br>Annual<br>Administrative<br>Cost | g<br>Percent of<br>Total Health<br>Claims Paid |
|------------------------------|--------------------------|----------------------------------|------------------------|--------------------------------|---------------------------|---------------------------------------|--|
| Chiropractor                 |                          |                                  |                        |                                |                           |                                       |  |
| Optometrist                  |                          |                                  |                        |                                |                           |                                       |  |
| Optician                     |                          |                                  |                        |                                |                           |                                       |  |
| Psychologist                 |                          |                                  |                        |                                |                           |                                       |  |
| Clinical Social<br>Worker    |                          |                                  |                        |                                |                           |                                       |  |
| Podiatrist                   |                          |                                  |                        |                                |                           |                                       |  |
| Professional<br>Counselor    |                          |                                  |                        |                                |                           |                                       |  |
| Physical<br>Therapist        |                          |                                  |                        |                                |                           |                                       |  |
| Clinical Nurse<br>Specialist |                          |                                  |                        |                                |                           |                                       |  |
| Audiologist                  |                          |                                  |                        |                                |                           |                                       |  |
| Speech<br>Pathologist        |                          |                                  |                        |                                |                           |                                       |  |

B-4

- a : number of visits to this provider group for which claims were paid in Virginia
- b : total dollar amount of claims paid to this provider group in Virginia
- c : cost per visit = column b divided by column a
- d : number of contracts in force in Virginia
- e : cost per contract = column b divided by column d
- f : the annual administrative cost associated with compliance with this mandate
- g : claims paid for services administered by this provider group as a percentage of the total amount of health claims paid for Virginia policyholders by this company

## Provider Worksheet # 2 – Group

| Provider                     | a<br>Number<br>of Visits | b<br>Total<br>Claims<br>Payments | c<br>Cost Per<br>Visit | d<br>Number<br>of<br>Contracts | e<br>Cost Per<br>Contract | f<br>Annual<br>Administrative<br>Cost | g<br>Percent of<br>Total Health<br>Claims Paid |
|------------------------------|--------------------------|----------------------------------|------------------------|--------------------------------|---------------------------|---------------------------------------|--|
| Chiropractor                 |                          |                                  |                        |                                |                           |                                       |  |
| Optometrist                  |                          |                                  |                        |                                |                           |                                       |  |
| Optician                     |                          |                                  |                        |                                |                           |                                       |  |
| Psychologist                 |                          |                                  |                        |                                |                           |                                       |  |
| Clinical Social<br>Worker    |                          |                                  |                        |                                |                           |                                       |  |
| Podiatrist                   |                          |                                  |                        |                                |                           |                                       |  |
| Professional<br>Counselor    |                          |                                  |                        |                                |                           |                                       |  |
| Physical<br>Therapist        |                          |                                  |                        |                                |                           |                                       |  |
| Clinical Nurse<br>Specialist |                          |                                  |                        |                                |                           |                                       |  |
| Audiologist                  |                          |                                  |                        |                                |                           |                                       |  |
| Speech<br>Pathologist        |                          |                                  |                        |                                |                           |                                       |  |

B-5

- a : number of visits to this provider group for which claims were paid in Virginia
- b : total dollar amount of claims paid to this provider group in Virginia
- c : cost per visit = column b divided by column a
- d : number of certificates in Virginia
- e : cost per contract = column b divided by column d
- f : the annual administrative cost associated with compliance with this mandate
- g : claims paid for services administered by this provider group as a percentage of the total amount of health claims paid for Virginia policyholders by this company

**Part C**

1. Please use what you consider to be your standard policy to answer this question. For the individual policy used as your base calculation in the question below:

- o What is the deductible? \_\_\_\_\_
- o What is the coinsurance? \_\_\_\_\_
- o What is the individual/employee out-of-pocket maximum? \_\_\_\_\_

For the group policy used as your base calculation in the question below:

- o What is the deductible? \_\_\_\_\_
- o What is the coinsurance? \_\_\_\_\_
- o What is the individual/employee out-of-pocket maximum? \_\_\_\_\_

For your health insurance in Virginia, what is the total annual premium including mandates, and what amount is added to the annual premium of each type policy for each mandate listed?

Please indicate where coverage under your policy exceeds Virginia's mandates.

|  | Individual Policy |        | Group Certificates |        |
|--|-------------------|--------|--------------------|--------|
|  | Single            | Family | Single             | Family |
| Total Annual Policy Premium                    | _____             | _____  | _____              | _____  |
| Premium for:                                   |                   |        |                    |        |
| Dependent Children Coverage                    | _____             | _____  | _____              | _____  |
| Doctor to Include Dentist                      | _____             | _____  | _____              | _____  |
| Newborn Children                               | _____             | _____  | _____              | _____  |
| Mental/Emotional/Nervous (Mental Disabilities) | _____             | _____  | _____              | _____  |
| Inpatient                                      | _____             | _____  | _____              | _____  |
| * Outpatient                                   | _____             | _____  | _____              | _____  |
| *Alcohol and Drug Dependence                   | _____             | _____  | _____              | _____  |
| Inpatient                                      | _____             | _____  | _____              | _____  |
| Outpatient                                     | _____             | _____  | _____              | _____  |
| *Obstetrical Services                          | _____             | _____  | _____              | _____  |
| Pregnancy from Rape or Incest                  | _____             | _____  | _____              | _____  |
| *Mammography                                   | _____             | _____  | _____              | _____  |
| *Child Health Supervision                      | _____             | _____  | _____              | _____  |

\* Denotes mandated offering

|                           |       |       |
|---------------------------|-------|-------|
| Chiropractor              | _____ | _____ |
| Optometrist               | _____ | _____ |
| Optician                  | _____ | _____ |
| Psychologist              | _____ | _____ |
| Clinical Social Worker    | _____ | _____ |
| Podiatrist                | _____ | _____ |
| Professional Counselor    | _____ | _____ |
| Physical Therapist        | _____ | _____ |
| Clinical Nurse Specialist | _____ | _____ |
| Audiologist               | _____ | _____ |
| Speech Pathologist        | _____ | _____ |

2. What is the number of individual policies and/or group certificates issued by your Company in 1991 in Virginia?

|            | Single | Family |
|------------|--------|--------|
| Individual | _____  | _____  |
| Group      | _____  | _____  |

3. What is the number of individual policies and/or group certificates in force for your company as of December 31, 1991 in Virginia?

|            | Single | Family |
|------------|--------|--------|
| Individual | _____  | _____  |
| Group      | _____  | _____  |

4. What would be the annual premium for an individual policy with no mandated benefits or mandated providers for a 30 year old male in the Richmond area in your standard premium class? What would be the cost for a policy for the same individual with present mandates? (Assume coverage including \$250 deductible, \$1,000 stop-loss limit, 30% co-insurance factor, \$250,000 policy maximum.) If you do not issue a policy of this type, please provide the premium for a 30 year old male in your standard premium class for the policy that you offer that is most similar to the one described and summarize the differences from the described policy.

|                  |          |
|------------------|----------|
| Without Mandates | \$ _____ |
| With Mandates    | \$ _____ |



Differences in Policy \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

5. Do you add an amount to the annual premium of a group certificate to cover the cost of conversion to an individual policy? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, what is the average dollar amount:

Single \_\_\_\_\_ Family \_\_\_\_\_

If no, is that cost covered in the annual premium of the individual policy? Yes \_\_\_\_\_ No \_\_\_\_\_

**Part D: Utilization and Expenditures for Selected Procedures by Provider Type**

Select Procedure Codes are listed here to obtain information about utilization and costs for specific types of services. Please identify expenditures and only visits for the Procedure Codes indicated. Other claims should not be included here.

**1. Procedure Code 90015**  
Office Visit, Intermediate Service to New Patient

|                        | Number of Visits | Claims Payments | Cost Per Visit |
|------------------------|------------------|-----------------|----------------|
| Chiropractor           |                  |                 |                |
| Clinical Social Worker |                  |                 |                |
| Physical Therapist     |                  |                 |                |
| Podiatrist             |                  |                 |                |
| Professional Counselor |                  |                 |                |
| Psychologist           |                  |                 |                |
| Physician              |                  |                 |                |

**2. Procedure Code 90844**  
Medical Psychotherapy, 45 to 50 Minute Session

|                           | Number of Visits | Claims Payments | Cost Per Visit |
|---------------------------|------------------|-----------------|----------------|
| Clinical Nurse Specialist |                  |                 |                |
| Clinical Social Worker    |                  |                 |                |
| Professional Counselor    |                  |                 |                |
| Psychiatrist              |                  |                 |                |
| Psychologist              |                  |                 |                |
| Physician                 |                  |                 |                |

**3. Procedure Code 90853**  
Group Medical Psychotherapy

|                           | Number of Visits | Claims Payments | Cost Per Visit |
|---------------------------|------------------|-----------------|----------------|
| Clinical Nurse Specialist |                  |                 |                |
| Clinical Social Worker    |                  |                 |                |
| Professional Counselor    |                  |                 |                |
| Psychiatrist              |                  |                 |                |
| Psychologist              |                  |                 |                |
| Physician                 |                  |                 |                |

4. Procedure Code 92507  
Speech, Language or Hearing

|                        | Number of Visits | Claims Payments | Cost Per Visit |
|------------------------|------------------|-----------------|----------------|
| Audiologist            |                  |                 |                |
| Clinical Social Worker |                  |                 |                |
| Physical Therapist     |                  |                 |                |
| Professional Counselor |                  |                 |                |
| Speech Pathologist     |                  |                 |                |
| Physician              |                  |                 |                |

5. Procedure Code 97110  
Physical Medicine Treatment, 30 Minutes, Therapeutic Exercise

|                    | Number of Visits | Claims Payments | Cost Per Visit |
|--------------------|------------------|-----------------|----------------|
| Chiropractor       |                  |                 |                |
| Physical Therapist |                  |                 |                |
| Physician          |                  |                 |                |
| Podiatrist         |                  |                 |                |
| Speech Pathologist |                  |                 |                |

6. Procedure Code 97124  
Physical Medicine Treatment, Massage

|                    | Number of Visits | Claims Payments | Cost Per Visit |
|--------------------|------------------|-----------------|----------------|
| Chiropractor       |                  |                 |                |
| Physical Therapist |                  |                 |                |
| Physician          |                  |                 |                |
| Podiatrist         |                  |                 |                |

7. Procedure Code 97128  
Physical Medicine Treatment, Ultrasound

|                    | Number of Visits | Claims Payments | Cost Per Visit |
|--------------------|------------------|-----------------|----------------|
| Chiropractor       |                  |                 |                |
| Physical Therapist |                  |                 |                |
| Physician          |                  |                 |                |
| Podiatrist         |                  |                 |                |

8. Procedure Code 92352  
Fitting of Spectacle Prosthesis for Aphakia

|                 | Number of Visits | Claims Payments | Cost Per Visit |
|-----------------|------------------|-----------------|----------------|
| Ophthalmologist |                  |                 |                |
| Optician        |                  |                 |                |
| Optometrist     |                  |                 |                |
| Physician       |                  |                 |                |

9. Procedure Code 11765  
Excision of Ingrown Toenail

|            | Number of Visits | Claims Payments | Cost Per Visit |
|------------|------------------|-----------------|----------------|
| Physician  |                  |                 |                |
| Podiatrist |                  |                 |                |

Appendix C. CPT-4, ICD-9CM, and UB-82 References

A. CPT and ICD-9CM Codes

Doctor to Include Dentist

ICD Codes

|         |   |
|---------|---|
| 520-529 | Diseases of oral cavity, salivary glands and jaws                   |
| 524     | Dentofacial anomalies, including malocclusion                       |
| 525     | Other diseases and conditions of the teeth and supporting structure |
| 526     | Diseases of the jaws  |

Newborn Children

ICD Codes

|           |  |
|-----------|--|
| 740-759.9 | Congenital anomalies                                   |
| 760-763   | Certain conditions originating in the perinatal period |
| 764-779   | Other conditions originating in the perinatal period   |

CPT Codes

|       |   |
|-------|---|
| 90225 | History and examination of the normal newborn infant, initiation of diagnostic and treatment programs and preparation |
| 90282 | Normal Newborn Services   |

Mental/Emotional /Nervous Disorders

CPT Codes - Distinguish between inpatient and outpatient

|             |   |
|-------------|---|
| 90825       | Psychiatric evaluation of hospital records, other psychiatric reports, psychometric and/or projective tests, and other accumulated data for medical diagnostic purposes   |
| 90801       | Psychiatric diagnostic interview examination, including history, mental status, or disposition  |
| 90600-90643 | Consultation for psychiatric evaluation of a patient includes examination of a patient and exchange of information with primary physician and other informants such as nurses or family members, and preparation of report. |

|           |   |
|-----------|---|
| 90830     | Psychological testing by physician, with written report per hour  |
| 90835     | Narcosynthesis for psychiatric diagnostic and therapeutic purposes  |
| 90841     | Individual medical psychotherapy by a physician, with continuing medical diagnostic evaluation and drug management when indicated, including insight oriented, behavior modifying or supportive psychotherapy; time unspecified |
| 90843     | approximately 20 to 30 minutes (90841)  |
| 90844     | approximately 45 to 50 minutes (90841)  |
| 90845     | Medical psychoanalysis  |
| 90846     | Family medical psychotherapy (without the patient present)  |
| 90847     | Family medical psychotherapy (conjoint psychotherapy)   |
| 90849     | Multiple family group medical psychotherapy by a physician  |
| 90853     | Group medical psychotherapy   |
| 90862     | Pharmacologic management, including prescription use, and review of medication with no more than minimal medical psychotherapy  |
| 90870     | Electro convulsive therapy  |
| 90871     | Multiple seizures, per day  |
|           | Other Psychiatric Therapy   |
| 90880     |   |
| 90882     |   |
| 90887     |   |
| 90889     |   |
|           | Other Procedures  |
| 90899     | Unlisted psychiatric service/procedure  |
|           | Alcohol and Drug Dependence   |
|           | ICD Codes   |
| 291-291.9 | Alcohol Psychoses   |
| 303       | Alcohol dependence syndrome   |

ICD Codes

- 292-292.9 Drug Psychoses
- 304 Drug dependence
- 305 - 305.9

Obstetrical Services

Delivery, Antepartum and Postpartum Care

CPT Codes

- 59400 Routine obstetric care including antepartum care, vaginal delivery (with or without episiotomy, and/or forceps) and postpartum care
- 54910 Vaginal delivery only (with or without episiotomy and/or forceps) including postpartum care
- 54912 External cephalic version, with or without tocolysis (list in addition to code(s) for delivery)
- 54914 Delivery of placenta following delivery of infant outside of hospital
- 59420 Antepartum care only (separate procedure)
- 54930 Postpartum care only (separate procedure)

Cesarean Delivery

- 59510 Routine obstetric care including antepartum care, cesarean delivery, and postpartum care
- 59515 Cesarean delivery only including postpartum care
- 59525 Subtotal or total hysterectomy after cesarean delivery (list in addition to 59510 or 59515)

Abortion

- 90000-90280 Medical treatment of spontaneous abortion, any trimester
- 59812 Treatment of spontaneous abortion, any trimester, completed surgically
- 58920 Treatment of missed abortion, completed surgically, first trimester

- 58921 Second trimester
- 58930 Treatment of septic abortion, completed surgically
- 58999 Unlisted procedure, maternity care and delivery

Pregnancy from Rape/Incest

Same Codes as Obstetrical Services/Any Other Appropriate

Mammography

CPT Codes

- 76092 Screening Mammography, bilateral

Child Health Supervision, Services  
(Well Baby Care)

CPT Codes

- 90701 Immunization, active; diphtheria and tetanus toxoids and pertussis vaccine (DTP)
- 90702 Diphtheria and tetanus toxids (DT)
- 90703 Tetanus toxoid
- 90704 Mumps virus vaccine, live
- 90705 Measles virus vaccine, live, attenuated
- 90706 Rubella virus vaccine, live
- 90707 Measles, mumps and rubella virus vaccine, live
- 90708 Measles, and rubella virus vaccine, live
- 90709 Rubella and mumps virus vaccine, live
- 90712 Polio virus vaccine, live, oral ((any type (s)))
- 90737 Hemophilus influenza B

New Patient

- 90755 Infant care to one year of age, with a maximum of 12 office visits during regular office hours, including tuberculin skin testing and immunization of DPT and Oral polio

**Established Patient**

|       |  |
|-------|--|
|       | Interval history and exam related to the healthy individual, including anticipatory guidance, periodic type exam |
| 90762 | Late childhood (Age 5-6 years)   |
| 90763 | Early childhood (Age 1 through 4 years)  |
| 90764 | Infant (Age under 1 year)  |
| 90774 | Administration and medical interpretation of developmental tests   |
| 86585 | Tuberculosis, tine test  |
| 90752 | late childhood (age 5 through 11)  |
| 90753 | early childhood (age 1 through 4)  |
| 90754 | infant (age under 1 year)  |

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**B. Uniform Billing Code Numbers (UB-82)**

**PLACE OF SERVICE CODES**

**Field Values**

|    |   |            |
|----|---|------------|
| 10 | Hospital, inpatient                             | Report As: |
| 1S | Hospital, affiliated hospice                    | Inpatient  |
| 1Z | Rehabilitation hospital, inpatient              | Inpatient  |
| 20 | Hospital, outpatient                            | Outpatient |
| 2F | Hospital-based ambulatory surgical facility     | Outpatient |
| 2S | Hospital, outpatient hospice services           | Outpatient |
| 2Z | Rehabilitation hospital, outpatient             | Outpatient |
| 30 | Provider's office                               | Outpatient |
| 3S | Hospital, office                                | Outpatient |
| 40 | Patient's home                                  | Outpatient |
| 4S | Hospice (Home hospice services)                 | Outpatient |
| 51 | Psychiatric facility, inpatient                 | Inpatient  |
| 52 | Psychiatric facility, outpatient                | Outpatient |
| 53 | Psychiatric day-care facility                   | Outpatient |
| 54 | Psychiatric night-care facility                 | Outpatient |
| 55 | Residential substance abuse treatment facility  | Inpatient  |
| 56 | Outpatient substance abuse treatment facility   | Outpatient |
| 60 | Independent clinical laboratory                 | Outpatient |
| 70 | Nursing home                                    | Inpatient  |
| 80 | Skilled nursing facility/extended care facility | Inpatient  |
| 90 | Ambulance; ground                               | Outpatient |
| 9A | Ambulance; air                                  | Outpatient |
| 9C | Ambulance; sea                                  | Outpatient |
| 00 | Other unlisted licensed facility                | Outpatient |

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# State Corporation Commission

## STATE CORPORATION COMMISSION

AT RICHMOND, JULY 19, 1991

COMMONWEALTH OF VIRGINIA

At the relation of the

CASE NO. INS910072

STATE CORPORATION COMMISSION

Ex Parte: In the matter  
of adopting Rules Governing  
Annual Audited Financial Reports

### ORDER ADOPTING REGULATION

WHEREAS, by order entered herein May 17, 1991, the Commission ordered that a hearing be held in the commission's Courtroom on July 18, 1991, for the purpose of considering the adoption of a regulation proposed by the Bureau of Insurance ("Bureau") entitled "Rules Governing Annual Audited Financial Reports";

WHEREAS, the Commission conducted the aforesaid hearing where the Bureau appeared and recommended several technical corrections to the regulation and several substantive changes to the regulation in response to the filed written comments of interested parties; and

THE COMMISSION, having considered the record herein, the comments of interested persons and the recommendations of the Bureau of Insurance, is of the opinion that the regulation should be adopted, with certain amendments;

THEREFORE, IT IS ORDERED that the regulation entitled "Rules Governing Annual Audited Financial Reports" which is attached hereto and made a part hereof should be, and it is hereby ADOPTED to be effective September 1, 1991.

AN ATTESTED COPY hereto shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Alfred W. Gross, who shall forthwith give further notice of the adoption of the regulation by mailing a copy of this order together with a copy of the regulation to all insurers, health services plans, health maintenance organizations, fraternal benefit societies, burial societies, legal services plans and dental or optometric services plans licensed by the Commission.

### RULES GOVERNING ANNUAL AUDITED FINANCIAL REPORTS

#### § 1. Authority.

This regulation is issued pursuant to §§ 38.2-1109, 38.2-1203, 38.2-1301, 38.2-2506, 38.2-2613, 38.2-3804, 38.2-3903, 38.2-4004, 38.2-4126, 38.2-4214, 38.2-4307.1, 38.2-4408, 38.2-4509 and 38.2-4602 of the Code of Virginia, as amended.

#### § 2. Purpose.

The purpose of this regulation is to improve the Commission's monitoring of the financial condition of licensed companies by requiring an annual examination by an Independent Certified Public Accountant of the financial statements reporting the financial position and the results of operations of insurers.

#### § 3. Applicability.

This regulation shall apply to all Life, Accident and Health, Sickness, and Property and Casualty insurers licensed to transact the business of insurance in Virginia under Chapter 10 of Title 38.2 of the Code of Virginia and all other organizations licensed to do business under any one or more of the following chapters of Title 38.2 of the Code of Virginia, subject to the limitations and/or exemptions as further stated in this regulation.

A. Chapter 11 - Captive Insurers.

B. Chapter 12 - Reciprocal Insurance.

C. Chapter 25 - Mutual Assessment Property and Casualty Insurers.

D. Chapter 26 - Home Protection Companies.

E. Chapter 38 - Cooperative Nonprofit Life Benefit Companies.

F. Chapter 39 - Mutual Assessment Life, Accident and Sickness Insurers.

G. Chapter 40 - Burial Societies.

H. Chapter 41 - Fraternal Benefit Societies.

I. Chapter 42 - Health Services Plans.

J. Chapter 43 - Health Maintenance Organizations.

K. Chapter 44 - Legal Services Plans.

L. Chapter 45 - Dental or Optometric Services Plans.

M. Chapter 46 - Title Insurance.

#### § 4. Scope.

This regulation shall apply to all organizations listed in § 3, hereinafter referred to as "insurers." Insurers having direct premiums written of less than \$1,000,000 in any calendar year and having less than 1,000 policyholders or certificate holders of directly written policies at the end of such calendar year are exempt from the requirements of this regulation for such year unless the Commission deems that compliance with the reporting requirements of this regulation is necessary to establish the financial condition of an insurer. Insurers having assumed premiums of

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\$1,000,000 or more pursuant to contracts and/or treaties of reinsurance will not be so exempt.

Foreign or alien insurers filing Audited Financial Reports in another state, pursuant to that state's requirements for filing of Audited Financial Reports and where such requirements have been found by the Commission to be substantially similar to the requirements herein, are exempt from this regulation if:

A. Copies of the Audited Financial Report, the Report on Significant Deficiencies in Internal Controls, and the Accountant's Letter of Qualifications which are filed with such other state are filed with the Commission in accordance with the filing dates specified in §§ 6, 13 and 14, respectively (Canadian insurers may submit Accountants' reports as filed with the Canadian Dominion Department of Insurance); and

B. A copy of any Notification of Adverse Financial Condition Report filed with such other state is filed with the Commission within the time specified in § 12.

This provision shall not prohibit, preclude or in any way limit the Commission's rights with respect to workpapers described in § 15 of this regulation or its rights concerning the ordering and/or conducting and/or performing of examinations of insurers under Title 38.2 of the Virginia Code.

## § 5. Definitions.

A. "Audited Financial Report" means and includes those items specified in § 7 of this regulation.

B. "Accountant" and "Independent Certified Public Accountant" means an independent, certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants ("AICPA") and in all states in which such accountant or firm is licensed to practice; for Canadian and British companies, it means a Canadian-chartered or British-chartered accountant.

C. "Due Date" means (i) June 1 for all domestic insurers, and (ii) June 30 for all foreign or alien companies domiciled or entered through a state in which similar law, regulation or administrative practice provides for a June 30 filing date, or (iii), for all other insurers, the earlier of June 30 or the date established by the insurer's state of domicile or entry for filing similar audited financial reports.

D. "Workpapers" means the records kept by the Accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the Accountant's examination of the financial statements of an insurer. Workpapers, accordingly, may include work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or

commentaries prepared or obtained by the Accountant in the course of the examination of the financial statements of an insurer and which support the Accountant's opinion thereof.

## § 6. Filing and Extensions for Filing of Annual Audited Financial Reports.

All insurers shall have an annual audit by an Accountant and shall file an Audited Financial Report with the Commission on or before the applicable Due Date for the year ended December 31 immediately preceding.

The Commission may require an insurer to file an Audited Financial Report earlier than the Due Date with ninety (90) days advance notice to the insurer.

An extension of the Due Date filing date may be granted by the Commission for periods of up to thirty days upon a showing by the insurer and its Accountant of the reasons for requesting such extension and upon determination by the Commission of good cause for an extension. The request for extension must be submitted in writing not less than ten (10) days prior to the due date in sufficient detail to permit the Commission to make an informed decision with respect to the requested extension.

## § 7. Contents of Annual Audited Financial Report.

The annual Audited Financial Report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows, and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the insurer's state of domicile. The annual Audited Financial Report shall include the following:

A. Report of Independent Certified Public Accountant.

B. Balance sheet reporting admitted assets, liabilities, capital and surplus.

C. Statement of operations.

D. Statement of cash flows.

E. Statement of changes in capital and surplus.

F. Notes to financial statements. These notes shall be those required by the Annual Statement and/or generally accepted accounting principles and shall also include:

(1) A reconciliation of differences, if any, between the statutory financial statements contained in the Audited Financial Report and the Annual Statement filed pursuant to §§ 38.2-1300, 38.2-4126 or 38.2-4307 of the Virginia Insurance Code with a written description of the nature of these differences.

(2) A summary of ownership and relationships of the

insurer and all affiliated companies.

G. The financial statements included in the Audited Financial Report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the Annual Statement the insurer filed with the Commission and the financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (However, in the first year in which an insurer is required to file an Audited Financial Report, the comparative data may be omitted.)

## § 8. Designation of Independent Certified Public Accountant.

Each insurer required by this regulation to file an annual Audited Financial Report must within sixty (60) days after becoming subject to such requirement, register with the Commission in writing the name and address of the Accountant retained to conduct the annual audit set forth in this regulation. Insurers not retaining an Accountant on the effective date of this regulation shall register the name and address of a retained Accountant within six (6) months after the effective date of this regulation.

As part of this registration, the insurer shall obtain a letter from the Accountant and file a copy with the Commission stating that the Accountant is aware of the provisions of the Insurance Code and the Rules and Regulations of the Insurance Department of the state of domicile that relate to accounting and financial matters, and affirming that he will express his opinion on the financial statements in the terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that Department, specifying such exceptions as he may believe appropriate.

If the Accountant who was the Accountant for the immediately preceding filed Audited Financial Report is dismissed or resigns, the insurer shall within five (5) business days notify the Commission of this event. The insurer shall also furnish the Commission with a separate letter within ten (10) business days of the above notification stating whether in the twenty-four (24) months preceding such event there were any disagreements with the former Accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure; which disagreements, if not resolved to the satisfaction of the former Accountant, would have caused him to make reference to the subject matter of the disagreement in his opinion. The disagreements required to be reported in response to this section include those resolved to the former Accountant's satisfaction and those not resolved to the former Accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level, i.e. between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report.

The insurer shall also in writing request such former Accountant to furnish a letter addressed to the insurer stating whether the Accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for disagreement; and the insurer shall furnish such responsive letter from the former Accountant to the Commission together with its own letter.

## § 9. Qualifications of the Accountant.

A. The Commission shall not recognize any person or firm as a qualified Accountant that is not in good standing with the AICPA and in all states in which the Accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered Accountant.

B. Except as otherwise provided herein, an Independent Certified Public Accountant shall be recognized as qualified as long as he or she conforms to the standards of his or her profession, as contained in the Code of Professional Conduct of the AICPA and the Rules and Regulations, including the Standard of Practice, of the Virginia Board for Accountancy, or similar code.

C. No partner or other person responsible for rendering a report may act in that capacity for more than seven (7) consecutive years. Following any period of service, such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two (2) years. An insurer may make application to the Commission for relief from the above rotation requirement on the basis of unusual circumstances. The Commission may consider the following factors in determining if the relief should be granted:

- (1) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;
- (2) Premium volume of the insurer; or
- (3) Number of jurisdictions in which the insurer transacts business.

The requirements of this paragraph shall become effective two (2) years after the promulgation of this regulation.

D. The Commission shall not recognize as a qualified Accountant, nor accept any annual Audited Financial Report, prepared in whole or in part by any person who:

- (1) has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. Sections 1961-1968) or any dishonest conduct or practices under federal or state law;
- (2) has violated the insurance laws of this Commonwealth with respect to any previous reports submitted under this regulation; or



# State Corporation Commission

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(3) has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this regulation.

E. The Commission may (i) make a determination as to whether an Accountant is qualified and may, based upon the facts considered, determine that such Accountant is not qualified for purposes of expressing an opinion on the financial statements in the annual Audited Financial Report made pursuant to this regulation and (ii) require the insurer to replace such Accountant with another whose relationship with the insurer is qualified within the meaning of this regulation.

## § 10. Consolidated or Combined Audits.

An insurer may make written application to the Commission for approval to include in its Audited Financial Report audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies which utilizes a pooling or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet shall be filed with the report, as follows:

A. Amounts shown on the consolidated or combined Audited Financial Report shall be shown on the worksheet.

B. Amounts for each insurer subject to this section shall be stated separately.

C. Noninsurance operations may be shown on the worksheet on a combined or individual basis.

D. Explanations of consolidating and eliminating entries shall be included.

E. A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the Annual Statements of the insurers.

## § 11. Scope of Examination and Report of Independent Certified Public Accountant.

Financial statements furnished pursuant to § 7 hereof shall be examined by an Accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards. Consideration should also be given to such other procedures illustrated in the Financial Condition Examiner's Handbook promulgated by the National Association of Insurance Commissioners as the Accountant deems necessary.

## § 12. Notification of Adverse Financial Condition.

The insurer required to furnish the annual Audited

Financial Report shall require the Accountant to report in writing within five (5) business days to the board of directors or its audit committee any determination by the Accountant that the insurer has materially misstated its financial condition as reported to the Commission as of the balance sheet date under examination or that the insurer does not meet its minimum statutory capital and surplus requirements as of that date pursuant to Virginia law. An insurer that has received a report pursuant to this paragraph shall forward a copy of the report to the Commission within five (5) business days of receipt of such report and shall provide the Accountant making the report with evidence of the report being furnished to the Commission. If the Accountant fails to receive such evidence within the required five (5) business day period, the Accountant shall furnish to the Commission a copy of its report within the next five (5) business days.

No Accountant shall be liable in any manner to any person for any statement made in connection with the above paragraph if such statement is made in good faith in compliance with the above paragraph.

If the Accountant, subsequent to the date of the Audited Financial Report filed pursuant to this regulation, becomes aware of facts which might have affected his report, the Commission notes the obligation of the Accountant to take such action as prescribed in Volume 1, AU Section 561 of the Professional Standards of the AICPA.

## § 13. Report on Significant Deficiencies in Internal Controls.

In addition to the annual audited financial statements, each insurer shall furnish the Commission with a written report prepared by the Accountant describing significant deficiencies in the insurer's internal control structure noted by the Accountant during the audit. Statement of Auditing Standards No. 60, Communication of Internal Control Structure Matters Noted in an Audit (AU Section 325 of the Professional Standards of the AICPA) requires an Accountant to communicate significant deficiencies (known as "reportable conditions") noted during a financial statement audit to the appropriate parties within an entity. No report should be issued if the Accountant does not identify significant deficiencies. If significant deficiencies are noted, the written report shall be filed annually by the insurer with the Commission within sixty (60) days after the filing of the annual Audited Financial Statements. The insurer is required to provide a description of remedial actions taken or proposed to correct significant deficiencies, if such actions are not described in the Accountant's report.

## § 14. Accountant's Letter of Qualifications.

The Accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual Audited Financial Report, a letter stating:

A. That he is independent with respect to the insurer

id conforms to the standards of his profession as contained in the AICPA's Code of Professional Conduct and pronouncements of its Financial Accounting Standards Board, and the Standards of Practice of the Virginia Board for Accountancy, or similar code.

B. The background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an Accountant. Nothing within this regulation shall be construed as prohibiting the Accountant from utilizing such staff as he deems appropriate where such use is consistent with the standards prescribed by generally accepted auditing standards.

C. That the Accountant understands the annual Audited Financial Report, and that its opinion thereon will be filed in compliance with this regulation and that the Commission will be relying on this information in the monitoring and regulation of the financial position of insurers.

D. That the Accountant consents to the requirements of § 15 of this regulation and that the Accountant consents and agrees to make available for review by the Commission, its designee or appointed agent, the workpapers, as defined in § 5.

E. That the Accountant is properly licensed by an appropriate state licensing authority and that he is a member in good standing in the AICPA.

F. That the Accountant is in compliance with § 9 of this regulation.

## § 15. Availability and Maintenance of CPA Workpapers.

Every insurer required to file the Audited Financial Report described in this regulation, shall require the Accountant to make available for review by the Commission's examiners, all workpapers prepared in the conduct of his examination and any communications related to the audit between the Accountant and the insurer, at the offices of the insurer, at the Commission or at any other reasonable place designated by the Commission. The insurer shall require that the Accountant retain the workpapers and communications until the Commission has filed a Report on Examination covering the period of the audit, but no longer than seven (7) years from the date of the audit report.

In the conduct of the aforementioned periodic review by the Commission's examiners, it shall be agreed that photocopies of pertinent workpapers may be made and retained by the Commission. Such reviews by the Commission's examiners shall be considered investigations and all workpapers and communications obtained during the course of such investigations shall be confidential.

## § 16. Exemptions.

Upon written application of any insurer, the Commission may grant an exemption from any provision and/or requirement of this regulation if the Commission finds, upon review of the application, that compliance with this regulation would constitute an undue financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for a specified period or periods. Upon written application of any insurer, the Commission may, for a specified period or periods, permit an insurer to file annual Audited Financial Reports on some basis other than a calendar year basis.

## § 17. Effective Dates.

All insurers retaining a certified public accountant on the effective date of this regulation who qualifies as an Accountant shall comply with all provisions of this regulation for the year ending December 31, 1991, and each year thereafter unless the Commission permits otherwise.

Insurers not retaining a certified public accountant on the effective date of this regulation who qualifies as independent may meet the following schedule for compliance unless the Commission permits otherwise.

A. For the year ending December 31, 1991, file with the Commission:

- (1) Report of Independent Certified Public Accountant;
- (2) Audited balance sheet; and
- (3) Notes to audited balance sheet.

B. For the year ending December 31, 1992, and each year thereafter, such insurers shall file with the Commission all reports required by this regulation.

## § 18. Canadian and British Companies.

A. In the case of Canadian and British insurers, the annual Audited Financial Report shall be defined as the annual statement of total business on the form filed by such companies with their domiciliary regulatory authority duly audited by an independent chartered accountant.

B. For such insurers, the letter required in § 8 shall state that the Accountant is aware of the requirements relating to the annual Audited Financial Report filed with the Commission pursuant to this section and § 6 and shall affirm that the opinion expressed is in conformity with such requirements.

## § 19. Severability Provision.

If any section or portion of a section of this regulation or the applicability thereof to any person or circumstance is held invalid, the remainder of the requirement or the applicability of such provision to other persons or

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circumstances shall not be affected thereby.

## STATE CORPORATION COMMISSION

AT RICHMOND, JULY 24, 1991

COMMONWEALTH OF VIRGINIA

At the relation of the

CASE NO. INS910220

STATE CORPORATION COMMISSION

Ex Parte: In the matter of  
adopting Rules Establishing Standards  
for Life, Annuity, and Accident and  
Sickness Reinsurance Agreements

### ORDER SETTING HEARING

WHEREAS, Virginia Code § 12.1-13 provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction and Virginia Code §§ 38.2-223 and 38.2-1316.7 provide that the Commission is authorized to issue reasonable rules and regulations necessary to regulate the standards for life, annuity, and accident and sickness reinsurance agreements;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed regulation entitled "Rules Establishing Standards for Life, Annuity, and Accident and Sickness Reinsurance Agreements"; and

WHEREAS, the Commission is of the opinion that a hearing should be held to consider the adoption of the proposed regulation;

#### THEREFORE, IT IS ORDERED:

(1) That the proposed regulation entitled "Rules Establishing Standards for Life, Annuity, and Accident and Sickness Reinsurance Agreements" 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 September 24, 1991, for the purpose of considering the adoption of the proposed regulation;

(3) That, on or before September 5, 1991, any person desiring to comment on the proposed regulation shall file such comments in writing with the Clerk of the Commission, Document Control Center, P. O. Box 2118, Richmond, Virginia 23216;

(4) That, in accordance with § 12.1-31 of the Code of Virginia, a Hearing Examiner shall conduct all further proceedings in this matter on behalf of the

Commission, concluding with the filing of the Examiner's final report to the Commission. In the discharge of such duties, the Hearing Examiner shall exercise all the inquisitorial powers possessed by the Commission, including, but not limited to, the power to administer oaths, require the appearance of witnesses and parties and the production of documents, schedule and conduct prehearing conferences, admit or exclude evidence, grant or deny continuances, and rule on motions, matters of law, and procedural questions. Any party objecting to any ruling or action of said Examiner shall make known its objection with reasonable certainty at the time of the ruling, and may argue such objections to the Commission as part of its comments to the final report of said Examiner; provided, however, if any ruling by the Examiner denies further participation by any party in interest in a proceeding not thereby concluded, such party shall have the right to file a written motion with the Examiner for his immediate certification of such ruling to the Commission for its consideration. Pending resolution by the Commission of any ruling so certified, the Examiner shall retain procedural control of the proceeding;

(5) That the Hearing Examiner hereinbefore appointed shall cause the testimony taken at the hearing to be reduced to writing and promptly deliver his written findings and recommendations together with the transcript of the hearing to the Commission for its consideration and judgment;

(6) That an attested copy hereof, together with a copy of the proposed regulation, be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner, Alfred W. Gross, who shall forthwith give further notice of the proposed regulation and hearing by mailing a copy of this order together with a copy of the proposed regulation to all companies licensed to write life insurance, annuities, or accident and sickness insurance in the Commonwealth of Virginia; and

(7) That the Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (6) above.

### RULES ESTABLISHING STANDARDS FOR LIFE, ANNUITY, AND ACCIDENT AND SICKNESS REINSURANCE AGREEMENTS

#### § 1. Authority.

This Regulation is adopted and promulgated by the Commission pursuant to Virginia Code §§ 12.1-13, 38.2-223 and 38.2-1316.7.

#### § 2. Purpose.

A. The purpose of this Regulation is to set forth standards for reinsurance agreements involving li'

insurance, annuities, or accident and sickness insurance in order that the financial statements of the life and health insurers utilizing such agreements properly reflect the financial condition of the ceding insurer.

B. The commission recognizes that life and health insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.

C. However, the commission has become aware that some life and health insurers, in the capacity of ceding insurers, have at times entered into reinsurance agreements, for the principal purpose of producing significant surplus aid for the ceding insurer, which provide little or no indemnification of policy benefits by the reinsurer. In addition, the Commission is concerned with reserve credits taken under reinsurance agreements which provide some indemnification of policy benefits where those policy benefits are not included in the gross reserves established by the ceding insurer, such as catastrophic mortality or extraordinary survival. The Commission believes that insurers should be precluded from claiming the surplus relief created by the terms of such agreements as referred to herein and described in § 4 of this regulation, since the recognition of such surplus would be in conflict with:

(1) the provisions of Virginia Code §§ 38.2-1300 and 38.2-1301 requiring insurers to file financial statements and reports that disclose full and accurate knowledge of their affairs and condition;

(2) the provisions of Article 3.1, Chapter 13 of Title 38.2 of the Code of Virginia relating to reinsurance reserve credits and a ceding insurer's ability to reduce liabilities or establish assets for reinsurance ceded; and

(3) the provisions of Virginia Code §§ 38.2-1038 and 38.2-1040 concerning the manner in which the Commission may respond to an insurer whose condition or continued operation may be hazardous to policyholders, creditors and the public in this Commonwealth.

### § 3. Scope and definitions.

A. This Regulation shall apply to all domestic life and health insurers and to all other licensed life and health insurers who are not subject to substantially similar provisions in their states of domicile or entry.

B. For purposes of this Regulation,

(1) "Life and health" and "life or health" mean (i) a class of insurance defined by Virginia Code §§ 38.2-102 through 38.2-109 or (ii) any product or service sold or offered by a person organized and licensed in Virginia under Chapter 38 (cooperative nonprofit life benefit companies), Chapter 39 (mutual assessment life,

accident and sickness insurers), Chapter 45 (dental and optometric services plans) or Chapter 42 (health services plans) of Title 38.2 of the Code of Virginia.

(2) "Insurer" means an insurance company or a cooperative nonprofit life benefit company or a mutual assessment life, accident and sickness insurer, or a health services plan or a dental services plan or an optometric services plan as those terms are defined in Title 38.2 of the Code of Virginia.

### § 4. Accounting and actuarial requirements.

A. No life or health insurer subject to this Regulation shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the Commission if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

(1) The primary effect of the reinsurance agreement is to transfer deficiency reserves or excess interest reserves to the books of the reinsurer for a "risk charge" and the agreement does not provide for significant participation by the reinsurer in of the following risks: mortality or morbidity, investment, or persistency;

(2) The reserve credit taken by the ceding insurer is not in compliance with the laws of this Commonwealth, particularly the provisions of Title 38.2 of the Code of Virginia and related Rules, Regulations and administrative pronouncements, including actuarial interpretations or standards adopted by the Commission;

(3) The reserve credit taken by the ceding insurer is greater than the amount which the ceding insurer would have reserved on the reinsured portion of the risk if there had been no reinsurance;

(4) The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against prior years' losses nor payment by the ceding insurer of an amount equal to prior years' losses upon voluntary termination of in-force reinsurance by that ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience; provided, however, that any offsetting provisions (i) shall be limited to such reinsurance agreement, (ii) are specifically between the ceding insurer and the reinsurer and (iii) are provided for in such reinsurance agreement;

(5) The ceding insurer can be deprived of surplus at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer or the appointment of a receiver, except that termination of the reinsurance agreement by the reinsurer for non-payment of reinsurance

# State Corporation Commission

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premiums shall not be considered to be such a deprivation of surplus;

(6) The ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

(7) Settlements are made on an untimely basis or payments due from the reinsurer are not made in cash but are instead made only in a "reinsurance account," and no funds in such account are available for the payment of benefits; or

(8) The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies.

(9) The terms or operating effect of the reinsurance agreement are such that it does not transfer substantial liability or risk.

B. Compliance with the conditions of subsection A of this section is not to be interpreted to diminish the requirement of Article 3.1 of Chapter 13 in Title 38.2 of Code of Virginia that the reserve credits taken must be based upon the actual liability assumed by the reinsurer to reimburse the ceding company for benefits that the ceding company is obligated to pay under its direct policies and which gave rise to the requirement of statutory reserves.

C. The ceding insurer's actuary responsible for the valuation of the reinsured business shall consider this Regulation and any applicable actuarial standards of practice when determining the proper reinsurance credit in financial statements filed with the Commission. The actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work that substantiates the reserves, reserve credits or any other reserve adjustments reported in the financial statement and to demonstrate to the satisfaction of the Commission that such work conforms to the provisions of this Regulation.

D. Notwithstanding subsection A of this section, an insurer subject to this Regulation may, with the prior approval of the Commission, take such reserve credit as the Commission may deem consistent with the laws of this Commonwealth, particularly the provisions of Title 38.2 of the Code of Virginia and related Rules, Regulations and administrative pronouncements, including actuarial interpretations or standards adopted by the Commission. All of the insurer's financial statements filed with the Commission pursuant to Virginia Code §§ 38.2-1300 or 38.2-1301.1 shall thereafter identify the reduction in liability or the establishment of an asset.

## § 5. Written agreements.

A. No reinsurance agreement or amendment to any

agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the Commission, unless the agreement, amendment or a letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

B. In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding ninety (90) days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

C. The reinsurance agreement shall at all times set forth the names of all parties to the agreement.

## § 6. Existing agreements.

Notwithstanding subsection 4A of this Regulation, insurers subject to this Regulation may continue to reduce liabilities or establish assets in financial statements filed with the Commission for reinsurance ceded under types of reinsurance agreements described in §§ 2C and 4, provided:

A. The agreements were executed and in force prior to the effective date of this Regulation;

B. No new business is ceded under the agreements after the effective date of this Regulation;

C. The reduction of the liability or the asset established for the reinsurance ceded is reduced to zero (0) at least on a pro-rata basis by December 31, 1992, or such later date approved by the Commission as a result of an application made by the ceding insurer prior to December 31 of the year in which this Regulation becomes effective;

D. The reduction of the liability or the establishment of the asset is otherwise permissible under all other applicable provisions of the laws of this Commonwealth, particularly the provisions of Title 38.2 of the Code of Virginia and related Rules, Regulations and administrative pronouncements, including actuarial interpretations or standards adopted by the Commission; and

E. The Commission is notified, within ninety (90) days following the effective date of this Regulation, of the existence of such reinsurance agreements and all corresponding reserve credits taken or assets established in the ceding insurer's 1990 Annual Statement.

## § 7. Severability.

If any provision in this Regulation or the application thereof to any person or circumstance is held for any reason to be invalid, the remainder of the provisions in this Regulation shall not be affected thereby.

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# STATE LOTTERY DEPARTMENT

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## DIRECTOR'S ORDER NUMBER FIFTEEN (91)

### VIRGINIA'S FIRST "PICK 3" TICKET GIVEAWAY GAME; FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Pick 3" ticket giveaway game rules for the Pick 3 promotional program to be conducted throughout the Commonwealth from Monday, June 10, 1991 through Saturday, July 13, 1991. These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of lotteries.

The rules are 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 unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson  
Director  
Date: June 7, 1991

## DIRECTOR'S ORDER NUMBER SEVENTEEN (91)

### "JOKER'S WILD"; VIRGINIA LOTTERY RETAILER SALES PROMOTIONAL PROGRAM AND RULES

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Joker's Wild" Virginia Lottery Retailer Sales Promotional Program and Rules for the lottery retailer incentive program which will be conducted from Monday, June 24, 1991 through Sunday, August 18, 1991. These rules amplify and conform to the duly adopted State Lottery Board regulations.

These rules are 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 unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson  
Director  
Date: June 24, 1991

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# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

### TREASURY BOARD

Title of Regulation: VR 640-02. Security for Public Deposits Act Regulations.

Governor's Comment:

Pending public comment, I concur with the substance of these regulations. However, I recommend that the Treasury Board consider the suggestions made by the Department of Planning and Budget to clarify language in the proposal.

/s/ Lawrence Douglas Wilder  
Governor  
Date: July 22, 1991

### VIRGINIA RACING COMMISSION

Title of Regulation: VR 662-03-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Commission Veterinarian.

Governor's Comment:

These regulations are intended to establish adequate requirements for veterinarians hired by the Virginia Racing Commission. Pending public comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder  
Governor  
Date: July 21, 1991

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Title of Regulation: VR 662-03-05. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Formal Hearings.

Governor's Comment:

These regulations are intended to establish procedures under which a holder of a racing permit may appeal a decision of the stewards to the Virginia Racing Commission. Pending public comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder  
Governor  
Date: July 21, 1991

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Title of Regulation: VR 662-04-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Horses.

Governor's Comment:

These regulations are intended to establish adequate conditions under which horse racing would be conducted at race meetings licensed by the Virginia Racing Commission. Pending public comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder  
Governor  
Date: July 21, 1991

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Title of Regulation: VR 662-05-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Flat Racing.

Governor's Comment:

These regulations are intended to establish adequate conditions under which flat racing would be conducted at race meetings licensed by the Virginia Racing Commission. Pending public comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder  
Governor  
Date: July 21, 1991

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Title of Regulation: VR 662-05-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Jump Racing.

Governor's Comment:

These regulations are intended to establish adequate conditions under which jump racing would be conducted at race meetings licensed by the Virginia Racing Commission. Pending public comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder  
Governor  
Date: July 22, 1991

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Title of Regulation: VR 662-05-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Quarter Horse Racing.

Governor's Comment:

These regulations are intended to establish adequate conditions under which quarter horse racing would be

Conducted at race meetings licensed by the Virginia Racing Commission. Pending public comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder  
Governor  
Date: July 23, 1991

**DEPARTMENT OF YOUTH AND FAMILY SERVICES  
(BOARD OF)**

**Title of Regulation: VR 690-20-001. Pre and Post-Dispositional Group Home Standards.**

**Governor's Comment:**

Promulgation of these regulations would establish operating standards for the care of youth in pre and post-dispositional group homes by the Department of Youth and Family Services. Approval is recommended.

/s/ Lawrence Douglas Wilder  
Governor  
Date: July 15, 1991



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# GENERAL NOTICES/ERRATA

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| <b>Symbol Key †</b> |
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† Indicates entries since last publication of the Virginia Register

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-04-12. Rules and Regulations for the Enforcement of the Virginia Gasoline and Motor Fuels Law.** The purpose of the proposed action is to adopt a uniform system of color code identification for underground petroleum storage tanks. This action is at the request of the 1991 Virginia General Assembly contained in House Joint Resolution 304. Public comment is particularly welcome relating to the "unusual circumstances" or "other methods" mentioned in the final paragraph of the resolution that may not require a regulation.

Statutory Authority: § 59.1-156 of the Code of Virginia.

Written comments may be submitted until August 19, 1991, 9 a.m.

Contact: J. Alan Rogers, Program Manager, VDACS, Office of Weights and Measures, P.O. Box 1163, Richmond, VA 23209-1163, telephone (804) 786-2476.

## CHILD DAY-CARE COUNCIL

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Child Day-Care Council intends to consider promulgating regulations entitled: **VR 175-08-01. Minimum Standards for Licensed Child Care Centers, Nursery Schools, and Child Day Care Camps Serving Children of Preschool Age or Younger.** The purpose of the proposed action is to develop minimum standards that are appropriate for child care centers, nursery schools, and child day care camps serving children of preschool age or younger. This notice represents a conversion of the notices of intent for: VR 175-02-01 (Minimum Standards for Licensed Child Care Centers), VR 175-05-01 (Minimum Standards for Licensed Child Day Care Camps) and VR 175-06-01 (Minimum Standards for Licensed Preschools and Nursery Schools). These previous notices of intent were published September 10, 1990, in Volume Six of Issue 25 of the Virginia Register.

Statutory Authority: §§ 63.1-202 and 63.1-202.1 of the Code of Virginia.

Written comments may be submitted until August 29, 1991.

Contact: Peggy Friedenborg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8689, telephone (804) 662-9217.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Child Day-Care Council intends to consider promulgating regulations entitled: **VR 175-09-01. Minimum Standards for Licensed Child Care Centers, Before School and After School Child Care Programs, and Child Day Care Camps Serving School Age Children.** The purpose of the proposed action is to develop minimum standards that are appropriate for child care centers, before school and after school child care programs, and child day care camps serving school age children. This notice represents a conversion of the notices of intent for: VR 175-02-01 (Minimum Standards for Licensed Child Care Centers), VR 175-05-01 (Minimum Standards for Licensed Child Day Care Camps) and VR 175-07-01 (Minimum Standards for Licensed Before School and After School Day Care Programs). These previous notices of intent were published September 10, 1990, in Volume Six of Issue 25 of the Virginia Register.

Statutory Authority: §§ 63.1-202 and 63.1-202.1 of the Code of Virginia.

Written comments may be submitted until August 29, 1991.

Contact: Peggy Friedenborg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8689, telephone (804) 662-9217.

## 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 230-30-002. Community Diversion Program Standards.** The purpose of the proposed action is to establish minimum standards for the development, operation and evaluation of programs and services provided under the Community Diversion Incentive Act.

Statutory Authority: §§ 53.1-5 and 53.1-180 et seq. of the Code of Virginia.

Written comments may be submitted until September 10, 1991.

Contact: Dee Malcan, Chief of Operations, 6900 Atmore Drive, P. O. Box 26963, Richmond, VA 23261, telephone (804) 674-3242.

**DEPARTMENT OF CRIMINAL JUSTICE SERVICES  
(BOARD OF)**

**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 Certification of Criminal Justice Instructors**. The purpose of the proposed action is to amend and revise the Rules Relating to Certification and Recertification of Criminal Justice Instructors.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until August 29, 1991, to L.T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula Scott, Staff Executive, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

**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 In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Services Officers and Officers of the Department of Corrections, Division of Adult Institutions**. The purpose of the proposed action is to amend and revise the Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, Division of Adult Institutions.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until August 29, 1991, to L.T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula Scott, Staff Executive, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

**DEPARTMENT OF GENERAL SERVICES**

**† Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of General Services intends to consider amending regulations entitled: **VR 330-02-05. Requirements for Approval to Perform Prenatal Serological Tests for Syphilis**. The purpose of this action is to update regulations to reflect current proficiency testing practices and make regulations consistent with federal statutes.

Statutory Authority: § 32.1-60 of the Code of Virginia.

Written comments may be submitted until August 24, 1991.

Contact: James Blaine, Assistant Bureau Director, Division of Consolidated Lab Services, 1 North 14th Street, Richmond, VA 23219, telephone (804) 786-5453.

**DEPARTMENT OF HEALTH (STATE BOARD OF)**

**† Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-18-000. Waterworks Regulations**. The purpose of the proposed action is to make appropriate amendments to make state regulations as stringent as federal for Total Coliform Rule and Surface Water Treatment Rule, Lead and Copper Rule, Standardized Monitoring Rule, and Phase II (SOC & IOC).

Statutory Authority: § 32.1-170 of the Code of Virginia.

Written comments may be submitted until September 9, 1991.

Contact: Allen R. Hammer, Division Director, Virginia Department of Health, Division of Water Supply Engineering, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-5566.

**Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-33-02. Regulations for the Licensure of Home Health Agencies**. The purpose of the proposed action is to amend existing regulations governing the licensure of home health agencies to incorporate statutory revisions to Article 7.1 of Chapter 5 of Title 32.1 that now provide for the licensure of home care organizations.

Statutory Authority: § 32.1-162.12 of the Code of Virginia.

Written comments may be submitted until August 28, 1991.

Contact: Stephanie A. Sivert, Division of Licensure and

## General Notices/Errata

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Certification, Assistant Director, Acute Care, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2104.

### 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 Department of Medical Assistance Services intends to consider amending regulations entitled: **Case Management for the Elderly**. The purpose of the proposed action is to promulgate permanent regulations to supersede the current emergency regulations which provide for the administration of case management requirements for the elderly.

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

Written comments may be submitted until August 12, 1991, to Ann E. Cook, Eligibility and Regulatory Consultant, Division of Policy and Research, DMAS, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Methods and Standards for Establishing Payment Rates - Other Types of Care: Fee-for-Service Reimbursement for Home Health Services**. The purpose of the proposed action is to promulgate permanent regulations to supersede the current emergency regulations which provide for fee-for-service reimbursement for home health agencies in place of the previous cost based reimbursement methodology.

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

Written comments may be submitted until August 12, 1991, to N. Stanley Fields, Manager, Division of Cost Settlement and Audit, DMAS, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of

Medical Assistance Services intends to consider amending regulations entitled: **Nursing Home Reimbursement Methodology (PIRS); Mortgage Dept Refinancing; Nursing Facility Rate Change; Technical Amendment to Ceiling Methodology**. The purpose of the proposed action is to promulgate permanent regulations to supersede the current emergency regulations which provide for: an incentive to providers to refinance mortgages when to do so benefits both the provider and the Commonwealth; an adjustment to the per diem rate for nursing facilities; technical amendment to the ceiling methodology.

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

Written comments may be submitted until August 12, 1991, to Joseph J. Beck, Hearings Officer, Division of Cost Settlement and Audit, DMAS, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Amount, Duration, and Scope of Services: Reduction of Threshold Days for Hospital Utilization Review**. The purpose of the proposed action is to promulgate permanent regulations to supersede the current emergency regulations which provide for the reduction of the number of inpatient hospital days which will be paid for without the manual review of the hospital claim.

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

Written comments may be submitted until August 12, 1991, to Jim Cohen, Manager, Division of Client Services, DMAS, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Amount, Duration, and Scope of Services: Elimination of Second Surgical Opinion Program**. The purpose of the proposed action is to eliminate the Second Surgical Opinion Program and its concomitant requirements.

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

Written comments may be submitted until August 12, 1991, to Mike Jurgenson, Analyst, Division of Policy and Research, DMAS, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Community Mental Health and Mental Retardation Services (revised)**. The purpose of the proposed action is to promulgate permanent regulations based on the revised emergency regulation which became effective July 1, 1991.

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

Written comments may be submitted until August 12, 1991, to Ann E. Cook, Regulatory and Eligibility Consultant, Division of Policy and Research, DMAS, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council**. The purpose of the proposed action is to amend §§ 6.1 and 6.7 of the rules and regulations to require health care institutions to file certified audited financial statements with the council no later than 120 days after the end of the institution's fiscal year. A 30-day extension could be granted for extenuating circumstances. A late charge of \$10 per working day would be assessed for filings submitted past the due date.

Statutory Authority: §§ 9-159(A)(i) and 9-164(2) of the Code of Virginia.

Written comments may be submitted until August 26, 1991.

**Contact:** G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804)

786-6371.

## 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 465-05-01. Regulations Governing Physician's Assistants**. The purpose of the proposed action is to amend § 2.1 General Requirements; § 2.2(D)(2) Renewal Reporting; and § 4.1(E) One-hour rule; and technical amendments for deleting "certificate" and inserting "license" where appropriate.

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

Written comments may be submitted until August 15, 1991.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925.

### 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 465-07-01. Regulations Governing the Licensure and Practice of Nurse Practitioners** (issued jointly with the Board of Nursing). The purpose of the proposed action is to establish standards governing the prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure appropriate standard of care for patients.

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

Written comments may be submitted until September 16, 1991.

**Contact:** Hilary H. Conner, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9908.

### 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 465-09-01. Certification for Optometrists to Prescribe for and Treat Certain Diseases or Abnormal Conditions of the Human Eye and Its Adnexa with Certain Therapeutic Pharmaceutical Agents**. The purpose of the proposed action is to review the regulations in response to the Governor's request. The board will entertain written comments for consideration on the present regulations.

# General Notices/Errata

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Copies of the present regulations may be secured by phone request at (804) 662-9925.

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

Written comments may be submitted until September 3, 1991.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9925.

## BOARD OF NURSING

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Nursing intends to consider amending regulations entitled: **VR 495-02-1. Regulations Governing the Licensure of Nurse Practitioners** (adopted jointly with the Board of Medicine). The purpose of the proposed regulation is to establish standards governing the prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure an appropriate standard of care for patients.

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

Written comments may be submitted until September 16, 1991.

Contact: Corinne F. Dorsey, R.N., Executive Director, Virginia Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909.

## REAL ESTATE BOARD

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Board intends to consider amending regulations entitled: **Real Estate Board Regulations**. The purpose of the proposed action is to undertake a review and seek public comments on all its regulations for promulgation, amendment and repeal as is deemed necessary in its mission to regulate Virginia real estate licensees.

Statutory Authority: §§ 54.1-200 and 54.1-21- et seq, of the Code of Virginia.

Written comments may be submitted until October 1, 1991.

Contact: Joan L. White, Assistant Manager, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8552.

## 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 promulgating regulations entitled: **VR 615-01-36. General Relief (GR) Program - Locality Options**. The purpose of the proposed action is to adopt the expanded options included in the current emergency regulation VR 615-01-36 that was published in Volume 7, Issue 13, dated March 25, 1991, in the Virginia Register.

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

Written comments may be submitted until August 14, 1991, to Diana Salvatore, Program Manager, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenburg, Legislative Analyst, Bureau of Governmental Affairs, Division of Planning and Program Review, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, 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: **VR 615-70-17. Child Support Enforcement Program**. The purpose of the proposed action is to allow the department to administratively deviate from the child support guidelines. In response to public comment, the Department of Social Services plans to (i) study the issue of administrative deviation from the child support guidelines, and if determined appropriate, (ii) promulgate revisions allowing the department to deviate from the guidelines.

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

Written comments may be submitted until August 15, 1991, to Penelope Boyd Pellow, Division of Child Support Enforcement, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenburg, Legislative Analyst, Bureau of Governmental Affairs, Division of Planning and Program Review, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, 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 repealing regulations entitled: **Child Day Care Scholarship Program**. These regulations provide administrative regulations guiding the procedures for the award of child day care scholarships.

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

Written comments may be submitted until September 12, 1991, to Catherine A. Loveland, Division of Licensing Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

**Contact:** Peggy Friedenborg, Executive Assistant, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

## GENERAL NOTICES

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

#### Public Notice

Take notice that a referendum will be conducted by mail ballot among Virginia small grains producers regardless of age who sold small grains during two of the past three years preceding October 4, 1991. The word "small grains" includes all barley, oats, rye, and wheat sold in the Commonwealth.

The purpose of this referendum is to allow Virginia farmers producing small grains to vote on whether or not they are willing to access themselves in the amount and manner below stated. The assessment shall be used by the Virginia Small Grains Board for research, education, publicity, and promotion of the sale and use of small grains.

The assessment to be voted on is 1/2 of one per cent of the selling price per bushel when sold. The processor, dealer, shipper, exporter or any other business entity who purchases small grains from the producer shall deduct the 1/2 of one per cent levy thereon and the levy shall be remitted to the Virginia State Tax Commissioner.

Producers must establish their eligibility to vote in this referendum by properly completing a certification form and returning the form to the Virginia Department of Agriculture and Consumer Services no later than August 30, 1991.

Eligible voters will be mailed a ballot and return envelope. Each eligible voter must return the ballot and ballot must be received by the Director, Division of Marketing, Virginia Department of Agriculture and Consumer Services on or before 5 p.m. October 4, 1991.

Producers may obtain eligibility certification forms from the following sources: County Extension Agent Offices; Virginia Small Grains Association, P.O. Box 400, Heathsville, VA 22473; Virginia Department of Agriculture and Consumer Services, Division of Marketing, P.O. Box

1163, Richmond, VA 23209.

### COUNCIL ON THE ENVIRONMENT

#### Public Notice

#### Notice of the Availability for Public Review

An Environmental Impact Assessment for an Exploratory Oil or Gas Well to be Drilled in King George County, Virginia.

**Purpose of Notice:** This notice informs persons interested in reviewing and commenting on the environmental impact assessment described herein of the availability of the assessment as required by § 62.1-195.1(D) of the Code of Virginia. A general description of the proposed activity, its location, and the content of the environmental impact assessment follow.

**Location:** Texaco, Inc. has proposed locating an exploratory oil or gas well in King George County. The site for the exploratory well is to be located on a tract of land bordered by Route 205 on the south, approximately one mile west of Ninde, Virginia, and is roughly opposite the cultural feature identified as "Prince Cemetery" on the Dahlgren quadrangle, USGS topographic map, 7.5 minute series. The proposed well site and associated lease boundaries are generally described in the accompanying map.

**Project Description:** The proposed exploratory well drilling operation will be conducted to evaluate the potential for marketable quantities of oil or gas resources to exist in the Taylorsville basin located in Tidewater Virginia. The proposed drilling operation would require three to four weeks for site preparation, 12 to 14 weeks for drilling, four to six weeks for completion and testing as warranted, and three to four weeks for site restoration. The well site will require a maximum area of 3.5 acres. The site is currently unused pastureland. Employees will live on-site and there will be on-site sewage treatment facilities. The drill site will be designed to contain a discharge of all fluids generated within the drill site. The drilling operations will be conducted 24 hours per day.

The environmental impact assessment submitted for the proposed project includes a description of the proposed well drilling site and the vicinity, a description and evaluation of the potential environmental impacts that may result if the exoratory well is constructed, an assessment of the potential environmental impacts that may result from accidental events, methodologies which would be put in place to minimize the likelihood of an accidental event, and control measures to minimize impacts should an accidental event occur. A discussion of the types and magnitude of environmental impacts which may occur as a result of longer-term production activities is included should the exoratory well prove successful.

# General Notices/Errata

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**Location of the Assessment:** A copy of the assessment may be reviewed during regular business hours at the offices of the Council on the Environment, 202 North Ninth Street, 9th Floor, Suite 900, Richmond, Virginia. Another copy of the assessment will be available for review at the Smoot Memorial Library located in King George, Virginia, on Route 3 next to the King George County Courthouse. The summer library hours are 10 a.m. to 9 p.m. Tuesday through Thursday and 10 a.m. to 5 p.m. Friday and Saturday.

**Deadline for Public Comment:** Written comments on the environmental impacts of the proposed activity may be submitted until 5 p.m., August 16, 1991. Comments must be addressed to:

Keith J. Buttleman, Administrator  
Virginia Council on the Environment  
202 N. Ninth Street  
Suite 900  
Richmond, VA 23219

**Contact:** For additional information, contact Jay Robers, Council on the Environment at the address indicated above or call (804) 786-4500 or (804) 371-7604/TDD.

## Public Notice

Notice of the Availability for Public Review

An Environmental Impact Assessment for an  
Exploratory Oil or Gas Well to be Drilled in  
Westmoreland County, Virginia.

**Purpose of Notice:** This notice informs persons interested in reviewing and commenting on the environmental impact assessment described herein of the availability of the assessment as required by § 62.1-195.1(D) of the Code of Virginia. A general description of the proposed activity, its location, and the content of the environmental impact assessment follow.

**Project Description:** The proposed exploratory well drilling operation will be conducted to evaluate the potential for marketable quantities of oil or gas resources to exist in the Taylorsville basin located in Tidewater Virginia. The proposed drilling operation would require three to four weeks for site preparation, 12 to 14 weeks for drilling, four to six weeks for completion and testing as warranted, and three to four weeks for site restoration. The well site will require a maximum area of 3.5 acres. The site is currently unused pastureland. Employees will live on-site and there will be on-site sewage treatment facilities. The drill site will be designed to contain a discharge of all fluids generated within the drill site. The drilling operations will be conducted 24 hours per day.

The environmental impact assessment submitted for the proposed project includes a description of the proposed well drilling site and the vicinity, a description and evaluation of the potential environmental impacts that may

result if the exploratory well is constructed, an assessment of the potential environmental impacts that may result from accidental events, methodologies which would be put in place to minimize the likelihood of an accidental event, and control measures to minimize impacts should an accidental event occur. A discussion of the types and magnitude of environmental impacts which may occur as a result of longer-term production activities is included should the exploratory well prove successful.

**Location of the Assessment:** A copy of the assessment may be reviewed during regular business hours at the offices of the Council on the Environment, 202 North Ninth Street, 9th Floor, Suite 900, Richmond, Virginia. Other copies of the assessment will be available for review through the Central Rappahannock Regional Library. A Copy of the assessment will be available at the Hague, Montross, Colonial Beach, and Fredericksburg branches of the Regional Library system.

**Deadline for Public Comment:** Written comments on the environmental impacts of the proposed activity may be submitted until 5 p.m., August 30, 1991. Comments must be addressed to:

Keith J. Buttleman, Administrator  
Virginia Council on the Environment  
202 N. Ninth Street  
Suite 900  
Richmond, VA 23219

**Contact:** For additional information, contact Jay Robers, Council on the Environment at the address indicated above or call (804) 786-4500 or (804) 371-7604/TDD.

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

### Public Notice

The Virginia Department for the Visually Handicapped (DVH) invites public inspection of and comment on its draft transition plan for structural changes to its facilities to achieve program accessibility for persons with disabilities. This public notice is in accordance with Part III, § 3.1 D of state regulations entitled, "Nondiscrimination Under State Grants and Programs," published by the Board for Rights of Virginians with Disabilities and effective October 1, 1990. The above-referenced regulations implement § 51.1-40 of the Code of Virginia.

Any interested party may obtain additional information and a copy of the agency's draft transition plan by contacting Carter D. Hamlett, Assistant Deputy Commissioner for Services, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia 23227, telephone 804/371-3140 (Voice/TDD) or toll-free 1-800-622-2155. Closing date for receipt of comments will be September 29, 1991.

## DEPARTMENT OF WASTE MANAGEMENT

### † Public Notice

#### Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of Section 10.1-1411 of the Code of Virginia, and Part V, Regulations for the Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the local governments of the Southern portion of the Crater Planning District comprised of the City of Emporia, the Counties of Dinwiddie, Greensville, Surry and Sussex and the Towns of Claremont, Dendron, Jarratt, McKenney, Stony Creek, Surry, Wakefield and Waverly. The Crater Planning District Commission will be designated contact for development and/or implementation of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on Friday, September 13, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX 804-225-3753 or TDD 804-371-8737.

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on the designation.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075 or (804) 225-2667.

### † Public Notice

#### Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of Section 10.1-1411 of the Code of Virginia, and Part V, Regulations for the Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the local governments of the County of Culpeper and the Town of Culpeper. The County of Culpeper will be designated contact for development and/or implementation of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on Friday, September 13, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX 804-225-3753 or TDD 804-371-8737.

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on the designation.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075 or (804) 225-2667.

### † Public Notice

#### Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of Section 10.1-1411 of the Code of Virginia, and Part V, Regulations for the Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the Virginia Peninsulas Public Service Authority comprised of the local governments of the Cities of Hampton, Newport News, Poquoson and Williamsburg, the Counties of Essex, Gloucester, James City, King & Queen, King William, Mathews, Middlesex and York and the Towns of West Point, Urbanna and Tappahannock. The Virginia Peninsulas Public Service Authority will be designated contact for development and/or implementation of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on Friday, September 13, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX 804-225-3753 or TDD 804-371-8737.

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on the designation.

Any questions concerning this notice should be directed to



## General Notices/Errata

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Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075 or (804) 225-2667.

### † Public Notice

#### Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of Section 10.1-1411 of the Code of Virginia, and Part V, Regulations for the Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the local governments of the County of Nottoway and the Towns of Blackstone, Burkeville and Crewe. The County of Nottoway will be designated contact for development and/or implementation of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on Friday, September 13, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX 804-225-3753 or TDD 804-371-8737.

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on the designation.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075 or (804) 225-2667.

### † Public Notice

#### Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of Section 10.1-1411 of the Code of Virginia, and Part V, Regulations for the Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the local governments of the Peters Mountain Landfill Board comprised of the County of Alleghany, the Town of Iron Gate and the Cities of Clifton Forge and Covington. The Peters Mountain Landfill Board will be designated contact for development and/or implementation of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on Friday, September 13, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX 804-225-3753 or TDD 804-371-8737.

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on the designation.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075 or (804) 225-2667.

### † Public Notice

#### Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of Section 10.1-1411 of the Code of Virginia, and Part V, Regulations for the Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the local governments of the Piedmont Planning District Commission comprised of Amelia County, Buckingham County and the Town of Dillwyn, Charlotte County and the Towns of Charlotte Court House, Drakes Branch, Keysville and Phenix, Cumberland County, Lunenburg County and the Towns of Kenbridge and Victoria, and Prince Edward County and the Town of Farmville. The Piedmont Planning District Commission will be designated contact for development and/or implementation of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on Friday, September 13, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX 804-225-3753 or TDD 804-371-8737.

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on the designation.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075 or (804) 225-2667.

## † Public Notice

### Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of Section 10.1-1411 of the Code of Virginia, and Part V, Regulations for the Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the local governments of Pittsylvania County and the Towns of Chatham, Hurt and Gretna. The County of Pittsylvania will be designated contact for development and/or implementation of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on Friday, September 13, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX 804-225-3753 or TDD 804-371-8737.

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on the designation.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075 or (804) 225-2667.

### Division of Solid Waste

Notice of Availability of Draft Solid Waste Disposal Facility Permit, Tentative Decision to Grant Variance to Certain Permitting Requirements, and Scheduled Public Hearing on the Draft Permit for the Virginia Fibre Industrial Landfill Proposed by Virginia Fibre Corporation, Amherst County, Virginia.

Pursuant to the requirements of Part VII of the Virginia Solid Waste Management Regulations (Permitting of Solid Waste Management Facilities), the draft Solid Waste Disposal Facility Permit for the development of an industrial landfill, proposed by Virginia Fibre Corporation, is available for public review and comment. The permit allows the proposed facility to accept only authorized, nonhazardous wastes which result from the operations of

Virginia Fibre Corporation. The proposal incorporates design elements for a synthetic cap, and synthetic drainage layers for the cap and side slopes of the base liner, which are not provided for in the regulations. Virginia Fibre petitioned for these features pursuant to the requirements of Part IX of the regulations (Rulemaking Petitions and Procedures), and the Department of Waste Management has granted tentative approval.

The Department of Waste Management will hold a public hearing on the draft permit on Wednesday, August 28, 1991, at 7 p.m. in the Board Room of the School Administration Building, Washington Street, Town of Amherst, Virginia. The public comment period shall extend until 5 p.m. on Monday, September 9, 1991. During this period, the Department of Waste Management is soliciting comments on the tentative decision to grant the variance, and on the technical merits of the draft permit as it pertains to this proposed facility. Comments on this draft should be in writing and directed to Hassan Vakili, Technical Services Administrator, Department of Waste Management, Division of Solid Waste, Eleventh Floor Monroe Building, 101 North Fourteenth Street, Richmond, Virginia 23219. For more information, call E.D. Gillispie at (804) 371-0514.

## VIRGINIA CODE COMMISSION

### NOTICE 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.

### 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

# General Notices/Errata

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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.

## ERRATA

### COUNCIL ON THE ENVIRONMENT

Title of Regulation: VR 305-01-001. Public Participation Guidelines.

Publication: 7:21 VA.R 3119-3121 July 15, 1991

Correction to Proposed Regulation:

Page 3119, Summary, clause (v) should read as follows:

"...(v) allowing at least 60 calendar days for public review and comment after publication of a notice of public comment (NOPC) in the Virginia Register, a Richmond area newspaper, and by other means deemed appropriate;..."

Title of Regulation: VR 305-02-01. Guidelines for the Preparation of Environmental Impact Assessments for Oil and Gas Well Drilling Operations in Tidewater Virginia.

Publication: 7:21 VA.R 3121-3132 July 15, 1991

Correction to Proposed Regulation:

Page 3122, paragraph 5, definition of "Highly erodible soils," line 3, first word, change the word "drill" to "rill."

# CALENDAR OF EVENTS

## Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

## VIRGINIA CODE COMMISSION

### EXECUTIVE

#### DEPARTMENT FOR THE AGING

##### Long-Term Care Ombudsman Program Advisory Council

† September 26, 1991 - 9 a.m. - Open Meeting  
Medical Society of Virginia, 1606 Santa Rosa Road, Suite 235, Richmond, Virginia. ☒

Business will include discussion of VDA Legislative Studies, including Home Care Ombudsman Presentation, and election of officers.

Contact: Ms. Virginia Dize, State Ombudsman, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2271/TDD or toll-free 1-800-552-3402.

#### VIRGINIA AGRICULTURAL COUNCIL

† August 26, 1991 - 9 a.m. - Open Meeting  
Holiday Inn - Airport, 5203 Williamsburg Road, Sandston, Virginia.

Annual meeting of the Council to hear new project proposals which are properly supported by the board of directors of a commodity group, review financial statements, and conduct any other business that may come before the members of the council.

Contact: Henry H. Budd, Assistant Secretary, 7th Floor,

Washington Building, 1100 Bank Street, Richmond, VA 23219, telephone (804) 371-0266.

#### BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† September 12, 1991 - 10 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, Fifth Floor, Conference Room One, Richmond, Virginia.

The board will meet to conduct a formal hearing: File number 90-01734, APELSLA Board v. Davie E. Delew.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8524.

#### Board for Architects

August 22, 1991 - 9:30 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes of April 18, 1991 meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

#### Board for Professional Engineers

August 13, 1991 - 9 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes of May 10, 1991 meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

#### COMMISSION FOR THE ARTS

August 12, 1991 - noon - Open Meeting  
August 13, 1991 - 9 a.m. - Open Meeting  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒

VCA quarterly business meeting.

Contact: Virginia Commission for the Arts, 223 Governor

# Calendar of Events

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Street, Richmond, Virginia 23219-2010, telephone (804) 225-3132.

## Task Force on the Promotion of Arts

† August 15, 1991 - 10 a.m. - Public Hearing  
Alexandria City Council Chambers, City Hall, 301 King Street, Alexandria, Virginia. ☒

Public hearing on Task Force on the Promotion of the Arts.

Contact: Virginia Commission for the Arts, 223 Governor Street, Richmond, Virginia 23219-2010, telephone (804) 225-3132.

## AUCTIONEERS BOARD

August 13, 1991 - 9 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

An open meeting to conduct regulatory review and other matters which require board action.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

## BOARD FOR BARBERS

August 12, 1991 - 9 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review correspondence; (iii) review and disposition of enforcement cases; and (iv) consider routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

## VIRGINIA COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

† August 15, 1991 - 10 a.m. - Open Meeting  
Jefferson Sheraton Hotel, Richmond, Virginia.

The Commission is charged with planning and coordinating Virginia's celebration of the Constitution and the Bill of Rights bicentennial. The August meeting will include a resume of past activities commemorating the birth of the Bill of Rights.

Contact: Tracy Warren, Associate Director, Virginia Commission on the Bicentennial on the United States

Constitution, 2015 Ivy Road, Room 308, Charlottesville, VA 22903, telephone (804) 924-1053 or SCATS 398-1053.

## STATE BUILDING CODE TECHNICAL REVIEW BOARD

† August 16, 1991 - 10 a.m. - Open Meeting  
Fourth Street State Office Building, 205 North Fourth Street, Second Floor Conference Room, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to (i) consider requests for interpretation of the Virginia Uniform Statewide Building Code; (ii) consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code, and (iii) approve minutes of previous meeting.

Contact: Jack A. Proctor, 205 North Fourth Street, Richmond, Virginia 23219.

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

August 21, 1991 - 10 a.m. - Open Meeting  
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Act programs. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by August 14, 1991.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☒

## CHILD-DAY CARE COUNCIL

September 16, 1991 - 3:30 p.m. - Public Hearing  
Roanoke Municipal Building, Council Chambers, 4th Floor, 215 Church Avenue, S.W., Roanoke, Virginia.

September 17, 1991 - 3 p.m. - Public Hearing  
Washington Gas and Light Company, The Auditorium, 6801 Industrial Road, Springfield, Virginia.

September 19, 1991 - 3 p.m. - Public Hearing  
Williamsburg Regional Library, The Arts Center Theatre, 515 Scotland Street, Williamsburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Child Day-Care Council intends to adopt regulations entitled: VR 175-08-01. Minimum Standards for Licensed Child Care Centers, Nursery Schools, and Child Day Car

**Camps Serving Children of Preschool Age or Younger.** This regulation describes the requirements that child care centers, nursery schools, and child day care camps serving children of preschool age or younger must meet to become licensed. VR 175-08-01 replaces VR 175-02-01, 175-05-01, and 175-07-01 since it was decided to consolidate these regulations. VR 175-02-01 will be repealed effective July 1, 1992.

Statutory Authority: §§ 63.1-202 and 63.1-202.1 of the Code of Virginia.

Written comments may be submitted until September 29, 1991, to Peg Spangenthal, Chair, Child Day-Care Council, 8007 Discovery Drive, Richmond, Virginia 23229.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

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**September 16, 1991 - 3:30 p.m. – Public Hearing**  
Roanoke Municipal Building, Council Chambers, 4th Floor, 215 Church Avenue, S.W., Roanoke, Virginia.

**September 17, 1991 - 3 p.m. – Public Hearing**  
Washington Gas and Light Company, The Auditorium, 6801 Industrial Road, Springfield, Virginia.

**September 19, 1991 - 3 p.m. – Public Hearing**  
Williamsburg Regional Library, The Arts Center Theatre, 515 Scotland Street, Williamsburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Child Day-Care Council intends to adopt regulations entitled: **VR 175-09-01. Minimum Standards for Licensed Child Care Centers, Before School and After School Child Care Programs, and Child Day Care Camps Serving School Age Children.** This regulation describes the requirements that child care centers, before school and after school child care programs, and child day care camps serving school age children must meet to become licensed. VR 175-08-01 replaces VR 175-02-01, 175-05-01, and 175-07-01 since it was decided to consolidate these regulations. VR 175-02-01 will be repealed effective July 1, 1992.

Statutory Authority: §§ 63.1-202 and 63.1-202.1 of the Code of Virginia.

Written comments may be submitted until September 29, 1991, to Peg Spangenthal, Chair, Child Day-Care Council, 8007 Discovery Drive, Richmond, Virginia 23229.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

**INTERAGENCY CONSORTIUM ON CHILD MENTAL HEALTH**

**September 4, 1991 - 9:15 a.m. – Open Meeting**  
Youth and Family Services, 700 Centre, 7th & Franklin Streets, Richmond, Virginia. ☒

A meeting to (i) discuss technical assistant position; (ii) set date for quarterly review; (iii) review fiscal report; (iv) review old applications, and (v) review new applications.

Contact: Dian M. McConnel, Chair, P.O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0700.

**DEPARTMENT OF COMMERCE**

**August 13, 1991 - 10:30 a.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street, Conference Room 3, Richmond, Virginia.

A formal hearing will be held for: File No. 90-02024, Department of Commerce v. David E. Carter.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad Street, Fifth Floor, Richmond, VA 23230, telephone (804) 367-8524.

**MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD**

† **September 5, 1991 - 7 p.m. – Open Meeting**  
† **October 3, 1991 - 7 p.m. – Open Meeting**  
502 South Main Street #4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the board of directors will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRB will meet to review cases before for eligibility to participate with the program. It will review the previous month's operation (budget and program related business).

Contact: Lisa Ann Peacock, Program Director, 502 South Main Street #4, Culpeper, Virginia 22701, telephone (703) 825-4562

**COMPENSATION BOARD**

**August 28, 1991 - 5 p.m. – Open Meeting**  
**September 26, 1991 - 5 p.m. – Open Meeting**  
Room 913/913A, 9th Floor, Ninth Street Office Building, 202 North Ninth Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A routine meeting to conduct business of the board.

# Calendar of Events

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Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, Virginia 23206-0686, telephone (804) 786-3886/TDD ☎

## BOARD ON CONSERVATION AND DEVELOPMENT OF PUBLIC BEACHES

† September 18, 1991 - 10:30 a.m. - Open Meeting  
Virginia Institute of Marine Sciences, Director's Office, Gloucester Point, Virginia.

A general business meeting.

Contact: Jack E. Frye, Shoreline Program Manager, Department of Conservation and Recreation, P. O. Box 1024, Gloucester Point, VA 23062, telephone (804) 842-7121.

## DEPARTMENT OF CONSERVATION AND RECREATION

### Juvenile Justice System Advisory Board

† August 16, 1991 - 10 a.m. - Open Meeting  
Charlottesville Downtown Recreation Center, Market and Avon Streets, Charlottesville, Virginia.

A meeting to review and revise on progress of the project.

Contact: Kathy Hamilton Brown, Therapeutic Recreation Specialist, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 371-0348 or (804) 786-2121/TDD 5

### Soil and Water Conservation Board

September 18, 1991 - 6 p.m. - Dinner Meeting  
The Ground Round, 102 Tower Drive, Danville, Virginia.

The board will hold its regular bi-monthly meeting.

Contact: Donald L. Wells, Assistant Director, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-4356.

## BOARD OF CORRECTIONS

† September 11, 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 to the board.

Contact: Mrs. Vivian T. Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

## Liaison Committee

† September 12, 1991 - 9:30 a.m. - Open Meeting  
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

The committee will continue to address criminal justice issues.

Contact: Louis E. Barber, Sheriff, Montgomery County, P. O. Drawer 149, Christiansburg, VA 24073, telephone (703) 382-2951.

## CRIMINAL JUSTICE SERVICES BOARD

October 2, 1991 - 9 a.m. - Public Hearing  
General Assembly Building, 910 Capitol Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-03-1. Rules Relating to Compulsory Minimum Training Standards for Private Security Services Business Personnel.** The regulations set forth minimum training standards and in-service training requirements for private security services personnel.

Statutory Authority: § 9-182 of the Code of Virginia.

Written comments may be submitted until September 16, 1991, to L.T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula Scott, Administrative Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

## STATE BOARD OF EDUCATION

August 14, 1991 - 7:30 a.m. - Open Meeting  
† September 25, 1991 - 8 a.m. - Open Meeting  
† September 26, 1991 - 8 a.m. - Open Meeting  
† October 30, 1991 - 8 a.m. - Open Meeting  
† October 31, 1991 - 8 a.m. - Open Meeting  
James Monroe Building, Conference Rooms D & E, 101 North Fourteenth Street, 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.

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 - CHESTERFIELD COUNTY

September 5, 1991 - 5:30 p.m. - Open Meeting  
October 3, 1991 - 5:30 p.m. - Open Meeting  
Chesterfield County Administration Building, 10001  
Ironbridge Road, Chesterfield, Virginia. ☒

A meeting to meet requirements of Superfund  
Amendment and Reauthorization Act of 1986.

Contact: Linda G. Furr, Assistant Emergency Services,  
Chesterfield Fire Department, P.O. Box 40, Chesterfield,  
VA 23832, telephone (804) 748-1236.

## LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF PRINCE WILLIAM, CITY OF MANASSAS, AND CITY OF MANASSAS PARK

August 19, 1991 - 1:30 p.m. - Open Meeting  
September 16, 1991 - 1:30 p.m. - Open Meeting  
1 County Complex Court, Prince William, Virginia. ☒

The Local Emergency Planning Committee will meet  
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

September 11, 1991 - 10 a.m. - Open Meeting  
Conference Room B, Monroe Building, 101 North 14th  
Street, Richmond, Virginia. ☒

This meeting will update the VERC on new  
developments in SARA Title III, Emergency Planning  
and Community "Right-to-Know"; and will discuss the  
impact of waste minimization and pollution prevention  
initiatives on program activities.

Contact: Cathy L. Harris, Environmental Program  
Manager, Department of Waste Management, 14th Floor,  
Monroe Bldg., 101 N. 14th Street, Richmond, VA 23219,  
telephone (804) 225-2513, (804) 225-2631, toll-free  
1-800-552-2075 or (804) 371-8737/TDD ☒

## COUNCIL ON THE ENVIRONMENT

September 4, 1991 - 7 p.m. - Public Hearing  
King George County Volunteer Fire Department, Route 3,  
King George, Virginia.

September 5, 1991 - 7 p.m. - Public Hearing  
Tappahannock Elementary School, Route 17, Auditorium,  
Tappahannock, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Council on the  
Environment intends to adopt regulations entitled: **VR  
305-02-01. Guidelines for the Preparation of  
Environmental Impact Assessments for Oil or Gas  
Well Drilling Operations in Tidewater Virginia.** The  
proposed regulation establishes criteria and procedures  
to be followed by applicants preparing and persons  
reviewing an environmental impact assessment for an  
oil or gas well drilling operation and related activities  
in Tidewater Virginia.

Statutory Authority: § 62.1-195.1 of the Code of Virginia.

Written comments may be submitted until September 13,  
1991.

Contact: Jay Roberts, Environmental Planner, 202 N. Ninth  
St., Suite 900, Richmond, VA 23219, telephone (804)  
786-4500.

\* \* \* \* \*

September 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 Council on the  
Environment intends to adopt regulations entitled: **VR  
305-01-001. Public Participation Guidelines.** The  
proposed regulation establishes the Council on the  
Environment's procedures for soliciting public  
participation in the formulation and development of  
regulations.

Statutory Authority: §§ 9-6.14:7.1, 10.1-1206, and 62.1-195.1  
of the Code of Virginia.

Written comments may be submitted until September 13,  
1991.

Contact: Jay Roberts, Environmental Planner, 202 N. Ninth  
St., Suite 900, Richmond, VA 23219, telephone (804)  
786-4500 or (804) 367-7604/TDD ☒

## VIRGINIA FIRE SERVICES BOARD

† August 22, 1991 - 9 a.m. - Open Meeting  
Embassy Suites, 2925 Emerywood Parkway, Richmond,  
Virginia.

A special meeting to discuss the role of the State Fire  
Marshal.

Contact: Anne J. Bales, Executive Secretary Senior, 2807  
Parham Road, Suite 200, Richmond, VA 23294, telephone  
(804) 527-4236.



# Calendar of Events

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## BOARD OF GAME AND INLAND FISHERIES

**August 29, 1991 - 9:30 a.m. - Open Meeting**  
4010 West Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Committees of the Board of Game and Inland Fisheries will meet, beginning at 9:30 a.m. with the Planning Committee, followed by the Finance Committee, then the Liaison Committee, Wildlife and Boat Committee and the Law and Education Committee. Each committee will review those agenda items appropriate to its authority, and make recommendations for adoption or advertisement of such to the full board at its meeting on August 30, 1991.

**August 30, 1991 - 9:30 a.m. - Open Meeting**  
**NOTE: CHANGE IN LOCATION**  
Holiday Inn Crossroads, 2000 Staples Mill Road, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The Board will meet to adopt the 1991-92 migratory waterfowl seasons and to propose fish regulations. In addition, consideration will be given to modifications to the list of new state endangered and threatened species and changing the status of several species currently on this list. Other general and administrative matters, as necessary, will be discussed.

**Contact:** Belle Harding, Secretary to Bud Bristow, 4010 W. Broad St., P. O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

## DEPARTMENT OF GENERAL SERVICES

### Advisory Commission on Mapping, Surveying and Land Information Systems

† **August 15, 1991 - 10 a.m. - Open Meeting**  
1100 Bank Street, Suite 901, Richmond, Virginia. ☒

A regular business meeting.

**Contact:** Charles E. Tyger, Computer Systems Engineer, Council on Information Management, 1100 Bank Street, Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

## BOARD FOR GEOLOGY

**August 15, 1991 - 9:30 a.m. - Open Meeting**  
**August 16, 1991 - 9:30 a.m. - Open Meeting**  
Department of Commerce, 3600 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia. ☒

The board will conduct its business meeting.

**Contact:** Nelle P. Hotchkiss, Assistant Director, 3600 W.

Broad St., Richmond, VA 23230, telephone (804) 367-8595.

## BOARD OF HEALTH PROFESSIONS

### Task Force on Managed Health Care

† **August 20, 1991 - 10 a.m. - Open Meeting**  
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The Task Force will meet to review the first draft of its report to the Commission on Health Care for All Virginians. The meeting is open to the public; however, no public comments will be received.

**Contact:** Richard Morrison, Executive Director, Department of Health Professions, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904.

## DEPARTMENT OF HEALTH

### Office of Planning and Regulatory Services

**August 13, 1991 - 10 a.m. - Public Hearing and Open Meeting**  
House Room C, General Assembly Building, Richmond, Virginia. ☒

The morning session will be a public hearing to comment on the need to regulate Durable Medical Equipment management in the home. The study committee will meet in the afternoon to conduct a business meeting regarding comments made during the public hearing.

**Contact:** Raymond O. Perry, Assistant Health Commissioner, Department of Health, 1500 E. Main Street, Suite 105, Richmond, VA 23219, telephone (804) 786-6970.

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**August 27, 1991 - 9:30 a.m. - Open Meeting**  
Blue Cross/Blue Shield, Virginia Room, 2015 Staples Mill Road, Richmond, Virginia. ☒

The council will conduct its monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting. The council's current bylaws will also be discussed and possibly amended.

**Contact:** G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† September 3, 1991 - 1 p.m. - Open Meeting  
† September 4, 1991 - 1 p.m. - Open Meeting  
The Airfield 4-H Center, Wakefield, Virginia. ☒

A general business meeting. For more information call the council.

Contact: Mike Mullen, Associate Director, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2610.

## VIRGINIA HISTORIC PRESERVATION FOUNDATION

† September 11, 1991 - 11 a.m. - Open Meeting  
530 Amherst Street, Winchester, Virginia.

A general business meeting.

Contact: Margaret Peters, 221 Governor Street, Richmond, Virginia 23219, telephone (804) 786-3143 or (804) 786-1935/TDD ☎

## BOARD OF HISTORIC RESOURCES

August 21, 1991 - 10:30 a.m. - Open Meeting  
NOTE: CHANGE IN LOCATION

Board Room, Hunton and Williams, 20th Floor, Riverfront Plaza East Tower, 951 East Byrd Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A general business meeting.

Contact: Margaret Peters, 221 Governor Street, Richmond, Virginia 23219, telephone (804) 786-3143 or (804) 786-1935/TDD ☎

## DEPARTMENT OF HISTORIC RESOURCES

### State Review Board

August 20, 1991 - 10 a.m. - Open Meeting  
Senate Room A, General Assembly Building, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places:

Black Walnut, Halifax County  
Chesterfield County Courthouse and Courthouse Square, Chesterfield County  
Front Royal Recreational Park, Front Royal, Warren County  
Hanger Mill, Augusta County

Huntingdon, Roanoke (City)  
The Rectory, Albemarle County  
Rothsay, Bedford County  
Salem Presbyterian Parsonage, Salem  
Cifax Rural Historic District, Bedford County  
Clifton Forge Commercial Historic District, Clifton Forge  
Powhatan/Mount Ida Rural Historic District, King George County  
Pulaski South Residential and Industrial Historic District, Town of Pulaski, Pulaski County  
Southwest Mountains Rural Historic District, Albemarle County

Contact: Margaret Peters, 221 Governor Street, Richmond, Virginia 23219, telephone (804) 786-3143 or (804) 786-1935/TDD ☎

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

September 3, 1991 - 9 a.m. - Open Meeting  
Hopewell Community Center, Second & City Point Road, Hopewell, Virginia. ☒ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

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

September 9, 1991 - 1 p.m. - Public Hearing  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒

September 11, 1991 - 10 a.m. - Public Hearing  
Prince William Department of Social Services, 7987 Ashton Avenue, Manassas, Virginia. ☒

September 12, 1991 - 10 a.m. - Public Hearing  
Hampton Public Library, 4207 Victoria Boulevard, Hampton, Virginia. ☒

September 13, 1991 - 10 a.m. - Public Hearing  
Virginia Tech Donaldson Brown Center, Otey Street, Blacksburg, Virginia. ☒

The Department of Housing and Community Development is holding four public hearings throughout the state to receive comments on the proposed Comprehensive Housing Affordability Strategy (CHAS) which is a statewide housing plan mandated by the National Affordable Housing Act of 1990. The proposed CHAS identifies needs, resources, and

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strategies for developing affordable housing and will serve as a guide for the expenditure of all federal and state housing assistance.

Comments on the proposed CHAS may be made at any of the public hearings or may be submitted in writing through September 30, 1991. Copies of the proposed CHAS may be obtained by calling or writing Ms. Sharon Kelleher, Department of Housing and Community Development, 205 North Fourth Street, Richmond, VA 23219, (804) 786-7891.

**Contact:** Alice Fascitelli, Program Manager, Department of Housing and Community Development, 205 North Fourth Street, Richmond, VA 23219, telephone (804) 225-4299 or (804) 786-5405/TDD ☎

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**August 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 Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0008. Rules and Regulations for Virginia Rental Rehabilitation Program.** The purpose of this action is to amend the rules and regulations in conformance with amendments to the federal regulations applicable to the program.

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

Written comments may be submitted until August 15, 1991.

**Contact:** J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

† **August 20, 1991 - 11 a.m.** - Open Meeting  
601 S. Belvidere Street, Richmond, Virginia. ☒

A regular meeting of the Board of Commissioners to (i) review, and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) consider and, if appropriate, approve proposed amendments to the Rules and Regulations for Virginia Rental Rehabilitation Program; and (v) consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** J. Judson McKellar, Jr., General Counsel, Virginia

Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

## STATE LAND EVALUATION ADVISORY COUNCIL

**August 23, 1991 - 10 a.m.** - Open Meeting  
**September 9, 1991 - 10 a.m.** - Open Meeting  
Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ☒

The council will meet to adopt suggested ranges of values for agricultural, horticultural, forest and open space land use and the use value assessment program.

**Contact:** David E. Jordan, Assistant Division Director, Virginia Department of Taxation, Property Tax Division, P.O. Box 1-K, Richmond, VA 23201, telephone (804) 367-8020.

## COMMISSION ON LOCAL GOVERNMENT

**August 19, 1991 - 11 a.m.** - Open Meeting  
**August 20, 1991 - (if needed)** - Time to be announced - Open Meeting  
City of South Boston, Halifax County - Site to be determined.

Oral presentations regarding the proposed reversion of the City of South Boston to town status in Halifax County.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860 TDD ☎ by May 23, 1991.

**August 20, 1991 - 7 p.m.** - Public Hearing  
City of South Boston, Halifax County area - Site to be determined.

Public hearing regarding the proposed reversion of the City of South Boston to town status in Halifax County.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860 TDD ☎ by May 23, 1991.

**Contact:** Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

## STATE LOTTERY BOARD

**August 26, 1991 - 10 a.m.** - Open Meeting  
State Lottery Department, Conference Room, 2201 Wes

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Broad Street, Richmond, Virginia. ☒

A regular monthly meeting of the board. Business will be conducted according to items listed on the 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 West Broad Street, Richmond, VA 23201, telephone (804) 367-9433.

## MARINE RESOURCES COMMISSION

**August 27, 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; fishery conservation issues; licensing; shellfish leasing.

Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and 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 or (804) 247-2292/TDD ☒

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

**August 16, 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 460-04-8.12. Home and Community Based Services for Individuals with Mental Retardation.** The purpose of this proposal is to promulgate permanent regulations for the provision of home and community-based services for persons with mental retardation, to supersede the temporary emergency regulation which became effective on December 20, 1990.

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

Written comments may be submitted until 4:30 p.m., August 16, 1991, to Chris Pruett, Division of QCA, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

**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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**September 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-04-29, 460-01-29.1, 460-01-31.1, 460-02-3.2100, and 460-03-4.1922. Coordination of Title XIX with Part A and Part B of Title XVIII.** The purpose of the proposed action is to limit the payment of coinsurance amount by Medicaid so that the combined payments of Medicare Part B and Medicaid would not exceed the Medicaid allowance for a particular procedure.

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

Written comments may be submitted until September 13, 1991, to C.M. Brankley, Director, Division of Client Services, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

**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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**September 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 Medical Assistance Services intends to amend regulations entitled: **State Plan for Medical Assistance Relating to Home Health Services. VR 460-03-3.1100. Amount, Duration and Scope of Services; VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.** The purpose of the proposed action is to promulgate permanent regulation to control the use of home health services.

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

Written comments may be submitted until September 13, 1991, to Mary Chiles, Manager, Division of Quality Care

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Assurance, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

**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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**September 27, 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: **State Plan for Medical Assistance Relating to Elimination of Medicaid Payment for Reserving Nursing Home Bed for Hospitalized Patients. VR 460-02-4.1930. Basis for Payment for Reserving Beds During a Recipient's Absence from an Inpatient Facility.** The purpose of the proposed action is to promulgate permanent regulations to supersede the emergency regulation which provides for the same policy.

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

Written comments may be submitted until September 27, 1991, to Betty Cochran, Director, Division of Quality Care Assurance, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

**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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**September 27, 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 460-03-3.1100. VR 460-02-3.1300. VR 460-04-3.1300. Outpatient Rehabilitative Services.** The purpose of the proposed action is to promulgate permanent regulations to supersede the existing emergency regulation which provides for substantially the same policies, requirements, and limitations.

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

Written comments may be submitted until September 27, 1991, to Mary Chiles, Manager, Division of Quality Care Assurance, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

**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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† **October 12, 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 460-04-8.3. Client Medical Management Program.** This action more clearly defines the amount, duration, and scope of certain medical services to expedite the utilization review process.

## STATEMENT

**Basis and Authority:** The Department of Medical Assistance Services (DMAS) is required by 42 CFR 456.3 Subpart A to implement a statewide surveillance and utilization control program. Federal regulations at 42 CFR 431.54(e-f) set forth the rules for lock-in and lock-out programs. DMAS meets these requirements by applying its Client Medical Management Program to specific recipients and providers. Subsequent to an emergency adoption action, the agency is initiating the public notice and comment process as contained in Article 2 of the APA.

**Purpose:** This regulatory package replaces the current emergency regulation entitled Expansion of the Client Medical Management Program (VR 460-04-8.3).

**Summary and Analysis:** Under the Virginia Client Medical Management Program, DMAS assigns clients who abuse or overuse services to primary care physicians and designated pharmacies for case management. The program also prohibits providers who abuse or provide unnecessary services from being designated as primary care providers for recipients in the program.

Revisions to the Client Medical Management regulations are necessary to expedite the utilization review process in order to increase the caseload to the targeted levels. New criteria that specify utilization levels which are considered excessive will allow DMAS' staff to determine more efficiently the clients' needs for coordination of medical care. More recipients of medical assistance will be evaluated for care coordination. Appropriateness of placement in care coordination will be ensured by the combined use of numeric thresholds and DMAS medical staff's reviews.

These regulatory revisions are also necessary to support the department in its administrative appeals process by defining the amount, duration and scope of certain medically unnecessary services.

The utilization patterns which serve as criteria for recipient restriction are listed in §§ 2 D and 2 J of t†

proposed regulations. There are several changes from the emergency regulatory package. Numeric thresholds have been adjusted for several criteria (D.3, h and l) using statistical data available through the Surveillance and Utilization Review Subsystem (SURS) of the Medicaid Management Information System.

New criteria (§ 2 D 3, m-n) recommended by health care providers have been added to help identify abusive utilization patterns which are substantiated upon review by DMAS staff and noncompliant behaviors which result in abuse. These would be used for both initial review of recipient activity and review of restricted recipients prior to the end of each restriction period to determine the need for continued utilization controls.

Experience in completing reviews on restricted recipients has shown the need for additional written criteria to address compliance with DMAS policy and recommendations of the designated provider(s). In addition to the changes described above, another new criterion (§ 2 J 1.d) will allow continued restriction when restricted recipients have had one or more changes of designated provider due to the breakdown of the recipient/provider relationship. These breakdowns may result from recipients' noncompliance with Client Medical Management policy and procedures or noncompliance with recommended medical care which results in abuse.

The result of frequent provider changes is that the recipient continues to receive fragmented medical care which may increase costs to the department. These recipients need more time to practice appropriate utilization of medical services and demonstrate compliance.

Currently all recipient restriction periods are for 18 months. Section 2 E 5 has been added to extend the restriction period to 24 months when a recipient has completed a period of enrollment in Client Medical Management and is subsequently found to have resumed abusive utilization practices once unrestricted. A longer restriction is expected to be more effective in changing inappropriate utilization patterns by giving recipients more time to practice compliance. It is expected to also serve as a greater deterrent to misuse of services.

There have been two changes in the emergency regulations regarding approval of recipient and provider regulations. Approval authority for recipient restriction (§ 2 D 4) and provider restriction (§ 3 D 4) has been removed because they were procedural.

**Impact:** Both recipient and provider restriction programs have been operational since 1983. Case management through recipient and provider restriction has been successful as a utilization control method. The recipient restriction program is administered by the department's Recipient Monitoring Unit. The average annual saving per restricted recipient is estimated at approximately \$1700. The provider restriction program currently has one restricted provider. This is the only provider who has been

restricted since 1986.

Experience with the program has demonstrated that assigning clients who abuse or overuse services to primary care physicians for case management can change utilization practices. Based on the department's December, 1989 Client Medical Management Cost Avoidance Study, the current program is cost effective and operates at an administrative cost of \$270,000 annually, with a net cost avoidance of approximately \$1,080,000 per year.

The department expects to increase the Client Medical Management Program caseload to 1500 recipients in fiscal year 1992. The increase will provide projected additional general fund savings of \$1,500,000 in FY 92.

Implementing these permanent regulations is expected to be budget neutral because the savings were achieved with the emergency regulation.

**Forms:** Forms to be used in the recipient restriction program are identified below. The only form changed significantly from the forms submitted with the initial regulatory package is #5. 1.

- Practitioner Referral Form - no changes. 2.
- Drug Utilization Review Reply - question IV added. 3.
- Recipient/Primary Provider Agreement - no changes. 4.
- Questionnaire - no changes. 5.
- Profile of Recipient's Utilization - modifications reflect changes in criteria for restriction. 6.
- Primary Care Provider's Review Form - language modified in the first question under II.

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

Written comments may be submitted until 4:30 p.m., October 12, 1991, to Ms. Sharon Long, Division of Program Compliance, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

## GOVERNOR'S ADVISORY BOARD ON MEDICARE AND MEDICAID

† August 27, 1991 - 2 p.m. - Open Meeting  
Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, Virginia.

Report and discussion of the Advisory Board's subcommittee meeting with the Board of Medical Assistance Services representatives.

**Contact:** Sue Jowdy, Executive Assistant, 600 E. Broad Street, Suite 1300, Richmond, Virginia 23219, telephone

# Calendar of Events

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(804) 786-8099 or 1-800-343-0634/TDD ☎ .

## BOARD OF MEDICINE

**September 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 Medicine intends to amend regulations entitled: **VR 465-09-01. Certification for Optometrists to Prescribe for and Treat Certain Diseases Including Abnormal Conditions of the Human Eye and Its Adnexa with Certain Therapeutic Pharmaceutical Agents.** These amendments replace emergency regulations in §§ 2.1-(3) and 6.1 of the regulations to provide alternate pathways for graduates of optometric training programs to be eligible to sit for the certification exam to treat ocular diseases with therapeutic pharmaceutical agents.

Statutory Authority: §§ 54.1-2400, 54.1-2957.1, and 54.1-2957.2 of the Code of Virginia.

Written comments may be submitted until September 13, 1991.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

## Informal Conference Committee

**August 16, 1991 - 9 a.m.** – Open Meeting  
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia. ☒

The Informal Conference Committee will 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, Disc., 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

## Advisory Committee on Optometry

**September 13, 1991 - 10 a.m.** – Open Meeting  
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The committee will meet to review public written comments received on the Optometry Regulations VR 465-09-01, Certification for Optometrists to prescribe for and treat certain diseases or abnormal conditions of the human eye and its adnexa with certain

therapeutic pharmaceutical agents. The committee will propose recommendations for presentation to the full board. Public comments will not be received.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

## Advisory Board on Physical Therapy

**August 23, 1991 - 9 a.m.** – Open Meeting  
**September 6, 1991 - 9 a.m.** – Open Meeting  
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review and discuss regulations, bylaws, procedural manuals, and to receive reports and other items which may come before the advisory board. The advisory board will not receive public comments.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

## Advisory Committee on Physician's Assistants

**August 23, 1991 - 9 a.m.** – Open Meeting  
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The committee will review and prepare recommendations to the board on proposed amendments to regulations VR 465-05-01. The committee will not entertain public comments.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

## MIGRANT AND SEASONAL FARMWORKERS BOARD

**† August 28, 1991 - 10 a.m.** – Open Meeting  
State Capitol Building, House Room 1, Richmond, Virginia. ☒

A regular meeting of the board. Immediately following the conclusion of the regular meeting, the Subcommittee on Complaint Resolution Process will meet.

**Contact:** Marilyn Mandel, Director, Office of Planning and Policy, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia 23219 telephone (804) 786-2385.

## VIRGINIA MILITARY INSTITUTE

### Board of Visitors

**September 7, 1991 - 8:30 a.m. - Open Meeting**  
Smith Hall Board Room, Virginia Military Institute,  
Lexington, Virginia. ☐

A regular meeting of the VMI Board of Visitors to (i) elect president for 1991-1992; and (ii) consider committee reports.

The BOV provides an opportunity for public comment at this meeting, immediately after the superintendent's comments (about 9 a.m.).

**Contact:** Colonel Edwin L. Dooley, Jr., Secretary to BOV, Virginia Military Institute, Lexington, Virginia 24450, telephone (703) 464-7206.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

**September 13, 1991 - 10 a.m. - Public Hearing**  
Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, 622 Powell Avenue, AML Conference Room, 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 480-03-10. Virginia Coal Surface Mining Reclamation Regulations. This action amends standards for protection of historic, fish, and wildlife resources; administrative procedures to reinstate individuals who have forfeited bond; appeals of the director's decisions; review of lands unsuitable petitions and notification of bond release.

Statutory Authority: §§ 45.1-3.4 and 45.1-230 of the Code of Virginia.

Written comments may be submitted until September 13, 1991.

**Contact:** Bill Edwards, Policy Analyst, Department of Mines, Minerals and Energy, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-0330 or toll-free 1-800-552-3831.

## BOARD OF NURSING

### Special Conference Committee

**August 13, 1991 - 8:30 a.m. - Open Meeting**  
**August 22, 1991 - 8:30 a.m. - Open Meeting**  
**August 23, 1991 - 8:30 a.m. - Open Meeting**  
**August 26, 1991 - 8:30 a.m. - Open Meeting**  
Department of Health Professions, Conference Room 3,  
301 Rolling Hills Drive, Richmond, Virginia. ☐

(Interpreter for deaf provided upon request)

A Special Conference Committee, comprised of three members of the Virginia Board of Nursing, will conduct informal conferences with licensees to determine what, if any, action should be recommended to the Board of Nursing.

Public comment will not be received.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, Virginia 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☐

### Task Force to Study Nurse Midwives and Obstetric Care

**August 19, 1991 - 10 a.m. - Open Meeting**  
General Assembly Building, 4th Floor West Conference Room, 910 Capitol Street, Richmond, Virginia. ☐

**August 19, 1991 - 1:30 p.m. - Public Hearing**  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

Task Force will meet to continue its study of providers of obstetric care, pursuant to House Joint Resolution 431.

At 1:30 p.m. the Task Force will conduct an informational public hearing in House Room C. Comment is requested related to methods of promoting and encouraging family physicians and obstetricians to continue or resume delivering babies, to examine the potential for expanding nurse midwife practice and recommendations for collaboration by these providers to respond to identified needs in the Commonwealth.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560, or (804) 662-7197/TDD ☐

## BOARD OF NURSING HOME ADMINISTRATORS

† **September 4, 1991 - 8:30 a.m. - Open Meeting**  
1601 Rolling Hills Drive, Richmond, Virginia.

The Informal Conference Committee will be hearing informal conferences.

**September 5, 1991 - 8:30 a.m. - Open Meeting**  
1601 Rolling Hills Drive, Richmond, Virginia.

A regularly scheduled board meeting.

**Contact:** Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-7390.



# Calendar of Events

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## BOARD OF OPTOMETRY

**August 21, 1991 - 8:30 a.m. – Open Meeting**  
Department of Health Professions, Conference Room 2,  
1601 Rolling Hills Drive, Richmond, Virginia.

Informal Conferences are scheduled.

The board will meet at 10 a.m. to adopt the  
Optometry Regulations.

**Contact:** Lisa J. Russell, Executive Director, 1601 Rolling  
Hills Drive, Richmond, VA 23220-5005, telephone (804)  
662-9942.

## VIRGINIA OUTDOORS FOUNDATION

**August 26, 1991 - 10:30 a.m. – Open Meeting**  
House Room 4, State Capitol, Richmond, Virginia. ☐

A general Business meeting.

**Contact:** Tyson B. Van Auken, Executive Director, 221  
Governor Street, Richmond, VA 23219, telephone (804)  
786-5539.

## REAL ESTATE APPRAISER BOARD

**September 17, 1991 - 11 a.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia.

A board meeting to adopt proposed regulations.

**Contact:** Demetra Y. Kontos, Assistant Director,  
Department of Commerce, Services, 3600 West Broad  
Street, Richmond, Virginia 23230, telephone (804) 367-2175.

\* \* \* \* \*

**September 16, 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 Real Estate Appraiser  
Board intends to adopt regulations entitled: **VR  
583-01-01. Real Estate Appraiser Board Public  
Participation Guidelines.** The proposed regulation  
outlines the procedures for solicitation of input from  
interested parties in the formation and development of  
Appraiser Board Regulations.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Written comments may be submitted until September 16,  
1991.

**Contact:** Demetra Y. Kontos, Assistant Director, Real  
Estate Appraiser Board, Department of Commerce, 3600

W. Broad St., 5th Floor, Richmond, VA 23230, telephone  
(804) 367-2175.

## REAL ESTATE BOARD

**August 15, 1991 - 11 a.m. – Open Meeting**  
Court Room 1, Roanoke City Circuit Court, 315 West  
Church Avenue, Roanoke, Virginia.

The board will meet to conduct a formal hearing: File  
Number 88-00865, Real Estate Board v. Donald Hall  
and Julia Mawyer.

**Contact:** Gayle Eubank, Hearings Coordinator, Department  
of Commerce, 3600 W. Broad St., Richmond, VA 23230,  
telephone (804) 367-8524.

† **August 22, 1991 - 9 a.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street, 5th  
Floor, Richmond, Virginia. ☐

A regular meeting to consider board business including  
license applications, disciplinary cases, etc.

**Contact:** Joan L. White, Assistant Director, Department of  
Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA  
23230, telephone (804) 367-8552.

**August 28, 1991 - 10 a.m. – Open Meeting**  
Tysons Corner Marriott, 8028 Leesburg Pike, Vienna,  
Virginia.

The board will meet to conduct a formal hearing: File  
Number 90-01807, Real Estate Board v. Becker,  
Harriet J.

**Contact:** Gayle Eubank, Hearings Coordinator, Department  
of Commerce, 3600 W. Broad St., Richmond, VA 23230,  
telephone (804) 367-8524.

\* \* \* \* \*

**August 16, 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 Real Estate Board  
intends to adopt regulations entitled: **VR 585-01-05.  
Real Estate Board Fair Housing Regulations.** The  
board proposes to promulgate fair housing regulations  
in support of the Virginia Fair Housing Law, Chapter  
5.1 (§ 36-96.1 et seq.) of Title 36 of the Code of  
Virginia effective July 1, 1991.

Statutory Authority: §§ 36-94(d) and 36-96.20(C) of the  
Code of Virginia.

**Contact:** Susan Scovill, Fair Housing Administrator,  
Department of Commerce, 3600 W. Broad St., 5th Floor  
Richmond, VA 23230, telephone (804) 367-8530

## INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

### Coordinating Committee

† August 16, 1991 - 8:30 a.m. - Open Meeting  
Office of Coordinator, Interdepartmental Regulation, 1603 Santa Rosa Road, Tyler Building, Suite 208, Richmond, Virginia. ☐

A regularly scheduled meeting 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 Drive, Richmond, VA 23229-8699, telephone (804) 662-7124.

### BOARD OF SOCIAL SERVICES

August 14, 1991 - 2 p.m. - Open Meeting  
August 15, 1991 - (if needed) - 9 a.m. - Open Meeting  
Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ☐

A work session and formal business meeting.

Contact: Phyllis Sisk, Staff Specialist, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-9236, toll-free 1-800-552-3431 or 1-800-552-7096/TDD ☐

### DEPARTMENT OF SOCIAL SERVICES (BOARD OF) AND CHILD DAY-CARE COUNCIL

† September 16, 1991 - 3:30 p.m. - Public Hearing  
Roanoke Municipal Building, Council Chambers, 4th Floor, 215 Church Avenue, S.W., Roanoke, Virginia.

† September 17, 1991 - 3 p.m. - Public Hearing  
Washington Gas and Light Company, Auditorium, 6801 Industrial Road, Springfield, Virginia.

† September 19, 1991 - 3 p.m. - Public Hearing  
Williamsburg Regional Library, Arts Center Theatre, 515 Scotland Street, Williamsburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services and Child Day-Care Council intend to amend regulations entitled: VR 615-30-01 and 175-03-01. **General Procedures and Information for Licensure.** The regulations are being revised to incorporate new legislation and to simplify and clarify licensing procedures.

### STATEMENT

**Subject:** The regulation, General Procedures and Information for Licensure, is being proposed for a 60-day period of public comment.

**Basis:** Sections 63.1-174 and 63.1-202 of the Code of Virginia provide the statutory basis for the State Board of Social Services to promulgate standards for adult day care centers, homes for adults, child placing agencies, child caring institutions, independent foster homes, family day care homes, and family day care systems. Section 63.1-202 provides the statutory base for the child care centers, including those centers operating as child day-care camps, preschools and nursery schools, and before and after school day-care programs. The board and council have approved the proposed regulation for a 60-day period of public comment.

**Purpose:** The purpose of the regulation is to define the rights, responsibilities, and procedures for licensees and the Department of Social Services during the licensing process. The proposed regulation was revised to include statutory changes to both Chapters 9 and 10 of Title 63.1 and to clarify and simplify some licensing procedures for both applicants and licensees and for licensing staff.

**Substance:** The proposed regulation includes the following changes:

adds four new child day care programs which will be regulated by the Department of Social Services;

adds intermediate sanctions for homes for adults to those sanctions already specified in the Code of Virginia;

establishes a process for biennial licensure for child care facilities;

requires licensees to request the fire and health inspections for their facilities rather than having it done by licensing staff;

requires unannounced renewal studies in adult care facilities;

provides for the establishment of a parental hot line to respond to complaints regarding child care facilities; and

streamlines and simplifies some licensing procedures identified by licensees and licensing staff.

**Issues:** This regulation addresses the following issues which impact facilities subject to licensure by the Department of Social Services: the license, the licensing process, allowable variances, informal appeal process, complaint investigation, sanctions, licensing office locations, and schedule of fees for application processing.

**Impact:** This regulation will affect the following programs licensed by the Department of Social Services: adult day

# Calendar of Events

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care centers; homes for adults; child placing agencies; independent foster homes; group family day care homes; family day care systems; child care centers, including those centers operating as child day-care camps, preschools and nursery schools, before and after school day-care programs.

As of May 31, 1991, there were 2372 facilities licensed by the Department of Social Services; they have a total licensed capacity of 146,762 children/adults.

Statutory Authority: §§ 63.1-174 and 63.1-202 of the Code of Virginia.

Written comments may be submitted until October 12, 1991.

**Contact:** Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

## BOARD OF SOCIAL WORK

† September 20, 1991 - 9 a.m. - Open Meeting  
† September 21, 1991 - 9 a.m. - Open Meeting  
1601 Rolling Hills Drive, Suite 200, Richmond, Virginia. ☒

A meeting to (i) conduct general board business; (ii) review and plan for the board for the next year; (iii) review long-range goals of the board; and (iv) respond to correspondence. No public comment will be received.

**Contact:** Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229, telephone (804) 662-9914.

## GOVERNOR'S TASK FORCE ON SUBSTANCE ABUSE AND SEXUAL ASSAULT ON COLLEGE CAMPUSES

† August 16, 1991 - 9:30 a.m. - Open Meeting  
General Assembly Building, House Room D, Richmond, Virginia. ☒

### MEETING CANCELLED

Full commission meeting to vote on recommendations.

**Contact:** Kris Ragan, Staff Assistant, 9th Street Office Building, Room 320, Richmond, VA 23219, telephone (804) 786-6316.

## COMMONWEALTH TRANSPORTATION BOARD

August 14, 1991 - 2 p.m. - Open Meeting  
Ramada Towers, 57th & Oceanfront, Virginia Beach, Virginia. ☒

† September 18, 1991 - 2 p.m. - Open Meeting

Virginia Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A joint work session of the Commonwealth Transportation Board and the Department of Transportation staff.

August 15, 1991 - 10 a.m. - Open Meeting  
Ramada Towers, 57th & Oceanfront, Virginia Beach, Virginia. ☒

† September 19, 1991 - 10 a.m. - Open Meeting  
Virginia Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Monthly meeting of the Commonwealth Transportation 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.

## TRANSPORTATION SAFETY BOARD

August 16, 1991 - 10 a.m. - CANCELLED  
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☒

The meeting to discuss several topics which pertain to transportation safety has been cancelled.

† September 26, 1991 - 10 a.m. - Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☒

A meeting to discuss several topics which pertain to transportation safety to include approval of FY92-402 Grant applications.

**Contact:** William H. Leighty, Deputy Commissioner for Transportation Safety, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23219-0001, telephone (804) 367-6614 or (804) 367-1752/TDD ☒

## TREASURY BOARD

August 21, 1991 - 9 a.m. - Open Meeting

# Calendar of Events

.01 North 14th Street, James Monroe Building, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting.

**Contact:** Belinda Blanchard, Assistant Investment Officer, Department of the Treasury, P. O. Box 6-H, Richmond, VA 23215, telephone (804) 371-6007.

## VIRGINIA RESOURCES AUTHORITY

**August 13, 1991 - 10 a.m. - Open Meeting**  
The Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet to (i) approve minutes of the meeting of July 9, 1991; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

**Contact:** Shockley D. Gardner, Jr., Mutual Building, 909 East Main Street, Suite 707, Richmond, VA 23219, telephone (804) 644-3100 or FAX Number (804) 644-3109.

## VIRGINIA VOLUNTARY FORMULARY BOARD

**August 29, 1991 - 10 a.m. - Public Hearing**  
109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

The Virginia Voluntary Formulary Board will hold a public hearing on this date. 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 February 15, 1991 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 August 29, 1991 will be made a part of the hearing record.

**September 19, 1991 - 10:30 a.m. - Open Meeting**  
109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new products pertaining to the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor Street, Room B1-9, Richmond, VA 23219, telephone (804) 786-4326 or SCATS (804) 786-3596.

## VIRGINIA WASTE MANAGEMENT BOARD

**August 15, 1991 - 10 a.m. - Open Meeting**  
General Assembly Building, House Room C, Richmond, Virginia. ☒

A general business meeting.

**Contact:** Loraine Williams, Secretary, 101 N. 14th Street, Richmond, VA 23219, telephone (804) 225-2667, toll-free 1-800-552-2075 or (804) 225-3753/TDD ☎

## DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

**August 28, 1991 - 7 p.m. - Open Meeting**  
The Board Room of the School Administration Building, Washington Street, Amherst, Virginia.

Pursuant to the requirements of Part VII of the Virginia Solid Waste Management Regulations (Permitting of Solid Waste Management Facilities), the draft Solid Waste Disposal Facility Permit for the development of an industrial landfill, proposed by Virginia Fibre Corporation, is available for public review and comment. The permit allows the proposed facility to accept only authorized, nonhazardous waste which result from the operations of Virginia Fibre Corporation. The proposal incorporates design elements for a synthetic cap, and synthetic drainage layers for the cap and side slopes of the base liner, which are not provided for in the regulations. Virginia Fibre petitioned for these features pursuant to the requirements of Part IX of the regulations (Rulemaking Petitions and Procedures), and the Department of Waste Management has granted tentative approval.

**† September 12, 1991 - 7 p.m. - Open Meeting**  
Operations Building, Municipal Center, Room 330, Virginia Beach, Virginia.

Pursuant to the requirements of Part VII of the Virginia Solid Waste Management Regulations (Permitting of Solid Waste Management Facilities), the draft permit for the development of a solid waste transfer station, proposed by Southeastern Public Service Authority (SPSA), is available for public review and comment. The permit allows SPSA to store or collect at the proposed facility authorized, nonhazardous solid waste collected from its service area for transportation to a permitted solid waste disposal facility. This transfer station is one of several components of SPSA's Regional Solid Waste and

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Resources Recovery Project currently serving the communities of Chesapeake, Franklin, Isle of Wright, Norfolk, Portsmouth, Southampton, Suffolk, and Virginia Beach.

Contact: E. D. Gillispie, Environmental Engineering Consultant, Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, VA 23219, telephone (804) 371-0514.

\* \* \* \* \*

**September 16, 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 Waste Management Board intends to adopt regulations entitled: **VR 672-20-32. Yard Waste Composting Facility Regulation.** This regulation provides for certain exemptions from the permitting requirements for solid waste management facilities contained in Part VII of the "Virginia Solid Waste Management Regulations" (VR 672-20-10) and certain substantive facility standards contained in § 6.1 of the same regulations.

Statutory Authority: §§ 10.1-1402 and 10.1-1408.1 of the Code of Virginia.

Contact: Michael P. Murphy, Environmental Program Manager, Department of Waste Management, 11th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0044/TDD ☎ or toll-free 1-800-533-7488

## STATE WATER CONTROL BOARD

**September 4, 1991 - 7 p.m.** - Public Hearing  
James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg, Virginia.

**September 9, 1991 - 7 p.m.** - Public Hearing  
Prince William County Board Room, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

**September 11, 1991 - 7 p.m.** - Public Hearing  
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-07. Oil Discharge Contingency Plans and Administrative Fees for Approval.** The purpose of this proposal is to establish requirements for facility and tank vessel contingency plans and fees for approval of contingency plans.

Statutory Authority: §§ 62.1-44.34:15 and 62.1-44.34:21 of the

Code of Virginia.

Written comments may be submitted until 4 p.m., September 30, 1991, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Mr. David Ormes, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5197.

\* \* \* \* \*

**September 4, 1991 - 7 p.m.** - Public Hearing  
James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg, Virginia.

**September 9, 1991 - 7 p.m.** - Public Hearing  
Prince William County Board Room, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

**September 11, 1991 - 7 p.m.** - Public Hearing  
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-08. Tank Vessel Financial Responsibility Requirements and Administrative Fees for Approval.** The purpose of this proposal is to establish requirements for financial responsibility on the part of operators of tank vessel's transporting or transferring oil upon state waters and fees for approval.

Statutory Authority: §§ 62.1-44.34:16 and 62.1-44.34:21 of the Code of Virginia.

Written comments may be submitted until 4 p.m., September 30, 1992, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Mr. David Ormes, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5197.

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† **September 30, 1991 - 7 p.m.** - Public Hearing  
York County General District Courtroom, Alexander Hamilton Boulevard, Courts and Office Center, Second Floor, Yorktown, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-16-05. York River Basin Water Quality Management Plan.** The purpose of the proposed amendment is to remove the waste load allocations in

stream segment 8-12 for American Oil, York and James Sanitary District #1, and York Regional wastewater treatment plants.

## STATEMENT

**Basis:** Section 62.1044.15(3a) of the Code of Virginia authorizes the board to establish standards of quality and policies for any state waters consistent with the general policy set forth in the State Water Control Law, and to modify, amend or cancel any such standards or policies established. Section 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program of the board in all or part of the Commonwealth. Section 62.1-44.15(13) authorizes the board to establish policies and programs for effective area-wide and basin-wide water quality control and management.

**Purpose:** Water quality management plans serve as a regulatory guide for the State Water Control Board in the implementation of mandated water quality goals. The purpose of the proposal is to amend the York River Basin Water Quality Management Plan (Plan) to remove the waste load allocations in stream segment 9-12 for American Oil, York and James City SD #1, and York Regional STP. Since the facilities do not discharge to a water quality limited segment, inclusion of the waste load allocations is not required by federal or state laws or regulations.

**Impact:** Federal and state laws require that Virginia Pollutant Discharge Elimination System permits be in compliance with appropriate area or basin wide water quality management plans. The proposed removal of these facilities will have no adverse impact on water quality. The quality and quantity of the discharges will continue to be regulated by the board's Permit Regulation. Without the proposed amendment, one facility, American Oil, will be required to comply with the CBOD5 limits contained in the plan which will create a financial burden for the facility.

**Issues:** The issue under consideration is the removal of inappropriate and unnecessary waste load allocations which were assigned to three facilities in an effluent limiting segment of the York River.

**Statutory Authority:** §§ 62.1-44.15(3a), 62.1-44.15(10), and 62.1-44.15(13) of the Code of Virginia.

Written comments may be submitted until 4 p.m., October 18, 1991, to Doneva Dalton, Tidewater Regional Office, State Water Control Board, 287 Pembroke Office Park, Suite 310, Pembroke II, Virginia Beach, Virginia 23462.

**Contact:** Robert F. Jackson, Jr., Tidewater Regional Office, State Water Control Board, 287 Pembroke Office Park, Suite 310, Pembroke II, Virginia Beach, Virginia 23462, telephone (804) 552-1840.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† September 26, 1991 - 10 a.m. — Public Hearing  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled: **VR 675-01-03. Board for Waterworks and Wastewater Works Operators Regulations.** The proposed amendments clarify, reorganize the requirements for education and operator experience and establish criteria for approval of specialized training courses.

## STATEMENT

**Purpose:** Pursuant to Virginia Code § 54.1-2300, the Board for Waterworks and Wastewater Works Operators proposes to promulgate new regulations governing the activities of waterworks and wastewater works treatment plant operators practicing in the Commonwealth of Virginia. The proposed regulations will amend, add to, delete from and reorganize the existing regulations.

### Estimated Impact:

It is estimated that these regulations will apply directly to approximately 4,000 licensed operators in the Commonwealth of Virginia.

Costs are shown in the regulation in the form of fees for taking the examinations, licensure by endorsement for out of state operators and for renewal of license. These fees were previously established in accordance with the requirements of § 54.1-113 of the Code of Virginia to ensure sufficient revenues are generated to cover anticipated program expenses.

There are no anticipated additional costs to the Board for Waterworks and Wastewater Works Operators as a result of the revision of these regulations.

This program is supported through licensing fees.

The legal authority for the Board for Waterworks and Wastewater Works Operators to promulgate regulations governing the activities of operators is found in § 54.1-2300 of the Code of Virginia.

The proposed regulations are needed to ensure that any individual who works in a waterworks or wastewater treatment plant in the Commonwealth of Virginia is properly licensed. The proposed regulations have been revised, amended, and reorganized for clarification.

Clarity and simplicity have been ensured in the drafting of these regulations by careful revision and the use of short, concise sentence structure. Requirements have been stated

# Calendar of Events

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In precise and direct terms. The amendments were redrafted several times in order to meet these goals and have been reviewed for clarity and simplicity by individuals in the department.

Since only individuals are licensed as waterworks/wastewater works operators in Virginia, the proposed regulations will have only minimal impact on small businesses/treatment plants in Virginia. The additional requirements of the proposed regulations affect individuals working in small and large treatment plants to the same extent. A potential problem would exist if a small plant had difficulty meeting any of the requirements. It would mean that the plant may be without a licensed treatment operator for a period of time.

Statutory Authority: §§ 54.1-113 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until October 15, 1991.

Contact: Mr. Gerald W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.



## STATE BOARD OF YOUTH AND FAMILY SERVICES

August 26, 1991 - 10 a.m. - Open Meeting  
Virginia Beach Resort Hotel and Conference Center, 2800  
Shore Drive, Virginia Beach, Virginia.

A general business meeting.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, 700 Centre, 4th Floor, 7th & Franklin Sts., Richmond, VA 23219, telephone (804) 371-0692.

## LEGISLATIVE

### JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

Subcommittee Studying the Administrative Process Act

† September 9, 1991 - 2 p.m. - Public Hearing  
General Assembly Building, Senate Room A, Capitol  
Square, Richmond, Virginia.

The mandate for the JLARC study of the

Administrative Process Act, HJR 397, raises the following issues:

- the efficiency and effectiveness of the Act,
- business community concerns about the implementation of the provisions of the Act by members of boards or commissions and their administrative staffs, and the economic impact of regulations upon business,
- the meaningfulness of public participation under the Act.

In an effort to clarify the nature and substance of these issues, a subcommittee of the Joint Legislative Audit and Review Commission will hold a public hearing on the Administrative Process Act in Richmond, on September 9, 1991, at 2 p.m. in Senate Room A of the General Assembly Building. All interested persons are invited to attend the public hearing and to submit written and oral remarks regarding their experiences and concerns with the Administrative Process Act. Information received during the public hearing will be used by JLARC staff throughout its review of the Administrative Process Act.

For more information or to register in advance, please call Stephen Fox at (804) 786-1258.

Contact: Stephen Fox, telephone (804) 786-1258.

### COMMISSION STUDYING THE NEED FOR AUTONOMOUS SCHOOL OR COLLEGE STATUS FOR THE FORESTRY AND WILDLIFE

† August 12, 1991 - 10 a.m. - Open Meeting  
General Assembly Building, House Room C, 910 Capitol  
Street, Richmond, Virginia.

The initial meeting of this Commission will be for purpose of organization and establishing agenda for interim meetings. (HJR 447)

Contact: Mark Pratt, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### JOINT SUBCOMMITTEE STUDYING EARLY INTERVENTION SERVICES FOR HANDICAPPED INFANTS AND TODDLERS

August 19, 1991 - 10 a.m. - Open Meeting  
General Assembly Building, House Room D, 910 Capitol  
Street, Richmond, Virginia. ☐

This is the first meeting of this subcommittee following the 1991 General Assembly Session. The

subcommittee will continue the work it started in 1990 when it was conducted pursuant to HJR 164. (HJR 380)

Contact: Jessica Bolecek, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## JOINT SUBCOMMITTEE STUDYING THE ENVIRONMENTAL IMPACT OF OIL AND GAS DRILLING UNDER THE CHESAPEAKE BAY

September 19, 1991 - 2 p.m. - Open Meeting  
General Assembly Building, Sixth Floor Conference Room, 910 Capitol Street, Richmond, Virginia. ☐

The joint subcommittee will meet for additional study of the environmental impact of oil and gas drilling under the Chesapeake Bay. (HJR 251)

Contact: Deanna Sampson, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## JOINT HOUSE APPROPRIATIONS AND SENATE FINANCE COMMITTEES

August 23, 1991 - 9:30 a.m. - Open Meeting  
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☐

The purpose of this meeting is to hear the Governor's report on surplus for the 1990-91 fiscal year.

Contact: John Garka, Division Manager, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## JOINT SUBCOMMITTEE TO STUDY INCENTIVE AND OBSTACLES FACING BUSINESSES WHEN MAKING LOCATION DECISIONS IN VIRGINIA

† August 23, 1991 - 2 p.m. - Open Meeting  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

The subcommittee will meet to continue with its study of incentive and obstacles facing businesses when making location decisions in Virginia. (HJR 448)

Contact: Maria Everett, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## LOCAL AND STATE GOVERNMENT INFRASTRUCTURE AND REVENUE RESOURCES COMMISSION

### Special Subcommittee

August 23, 1991 - 1 p.m. - Open Meeting  
General Assembly Building, 5th Floor West Conference Room, 910 Capitol Street, Richmond, Virginia. ☐

A special subcommittee of the commission will hold a working session in a continuation of its study of local and state government infrastructure and revenue resources. (HJR 205)

Contact: Bethany Parker, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## JOINT SUBCOMMITTEE STUDYING THE EXISTING MECHANICS' LIEN LAWS

† August 19, 1991 - 1 p.m. - Open Meeting  
General Assembly Building, Sixth Floor Conference Room, Richmond, Virginia.

The subcommittee will meet to proceed with agenda established at organizational meeting. (HJR 418)

Contact: Oscar Brinson, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## JOINT SUBCOMMITTEE STUDYING SCHOOL DROPOUTS AND WAYS TO PROMOTE THE DEVELOPMENT OF SELF-ESTEEM IN YOUTH AND ADULTS

† August 15, 1991 - 10 a.m. - Open Meeting  
State Capitol Building, House Room 4, Richmond, Virginia.

A general meeting.

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## SUBCOMMITTEE STUDYING THE REGULATION OF UNDERGROUND INJECTION WELLS IN THE COMMONWEALTH

September 5, 1991 - 7:30 p.m. - Public Hearing  
Circuit Courtroom, Dickenson County Courthouse, Main Street, Clintwood, Virginia.

The subcommittee will hold a public hearing concerning the regulation of underground injection wells in the Commonwealth. (HJR 310)



# Calendar of Events

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Contact: John Heard, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## VIRGINIA CODE COMMISSION

† September 4, 1991 - 8:45 a.m. - Open Meeting  
† September 5, 1991 - 8:45 a.m. - Open Meeting  
The Tides Inn, Irvington, Virginia.

The Commission will begin its work on the revision of Title 28.1 (Fish, Oysters, Shellfish, etc.) and conduct general business.

Contact: Joan W. Smith, Virginia Code Commission, General Assembly Building, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

## STATE WATER COMMISSION

† August 22, 1991 - 1 p.m. - Open Meeting  
Roanoke City Council Chambers, City Hall, 215 Church Avenue, Roanoke, Virginia.

The commission will receive comments and recommendations from the public on the formulation of a State Water Policy.

Contact: Martin G. Farber, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## LABOR & COMMERCE SUBCOMMITTEE STUDYING HOUSE BILL 1813 RELATING TO WORKER'S COMPENSATION AND PNEUMOCONIOSIS

August 22, 1991 - 1 p.m. - Open Meeting  
State Capitol, House Room 2, Capitol Square, Richmond, Virginia. ☐

The subcommittee will meet to review House Bill 1813, as originally introduced, relating to worker's compensation and pneumoconiosis.

Contact: Arlen K. Bolstad, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## JOINT SUBCOMMITTEE STUDYING THE WORKER'S COMPENSATION SECOND INJURY FUND

August 22, 1991 - 10 a.m. - Open Meeting  
State Capitol, House Room 2, Capitol Square, Richmond, Virginia. ☐

The joint subcommittee will meet for additional study of the worker's compensation second injury fund.

(HJR 312).

Contact: Arlen K. Bolstad, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## YOUTH SERVICES COMMISSION

† August 21, 1991 - 1 p.m. - Open Meeting  
† September 13, 1991 - 10 a.m. - Open Meeting  
General Assembly Building, 5th Floor West Conference Room, Richmond, Virginia. ☐

General commission meeting.

Contact: Mary Simmons, Youth Services Commission, General Assembly Building, 910 Capitol St., Suite 517B, Richmond, VA 23219, telephone (804) 371-2481.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### August 12

Arts, Commission for the  
† Autonomous School or College Status for the Forestry and Wildlife, Commission Studying the Need for Barbers, Board for

#### August 13

Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for  
- Board for Professional Engineers  
Arts, Commission for the Auctioneers Board  
Commerce, Department of Nursing, Board of  
- Special Conference Committee  
Virginia Resources Authority

#### August 14

Education, State Board of Social Services, State Board of Transportation Board, Commonwealth

#### August 15

† Bicentennial of the United States Constitution, Virginia Commission on the  
† General Services, Department of  
- Advisory Commission on Mapping, Surveying and Land Information Systems  
Geology, Board for Real Estate Board  
† School Dropouts and Ways to Promote the Development of Self-Esteem in Youth and Adults, Joint Subcommittee Studying  
Social Services, State Board of

# Calendar of Events

Transportation Board, Commonwealth  
Waste Management Board, Virginia

## August 16

† Building Code Technical Review Board, State  
† Conservation and Recreation, Department of  
- Juvenile Justice System Advisory Board  
Geology, Board for  
Medicine, Board of  
- Informal Conference Committee  
† Residential Facilities for Children, Interdepartmental  
Regulation of  
- Coordinating Committee  
† Substance Abuse and Sexual Assault on College  
Campuses, Governor's Task Force on  
MEETING CANCELLED

## August 19

Early Intervention Services for Handicapped Infants  
and Toddlers, Joint Subcommittee Studying  
Emergency Planning Committee, Local - County of  
Prince William, City of Manassas, and City of  
Manassas Park  
Local Government, Commission on  
† Mechanics' Lien Laws, Joint Subcommittee Studying  
the Existing  
Nurse Midwives and Obstetric Care, Task Force to  
Study

## August 20

† Health Professions, Board of  
- Task Force on Managed Health Care  
Historic Resources, Department of  
- State Review Board  
† Housing Development Authority, Virginia  
Local Government, Commission on

## August 21

Chesapeake Bay Local Assistance Board  
Corrections, Board of  
Historic Resources, Board of  
Optometry, Board of  
Treasury Board  
† Youth Services Commission

## August 22

Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for  
† Fire Services Board, Virginia  
Nursing, Board of  
- Special Conference Committee  
† Real Estate Board  
† Water Commission, State  
Labor and Commerce Subcommittee Study House Bill  
1813, as Originally Introduced, Relating to Worker's  
Compensation and Pneumoconiosis  
Worker's Compensation Second Injury Fund, Joint  
Subcommittee Studying

## August 23

House Appropriations and Senate Finance Committees,  
Joint

† Incentive and Obstacles Facing Businesses When  
Making Location Decisions in Virginia, Joint  
Subcommittee to Study  
Land Evaluation Advisory Council, State  
Local and State Government Infrastructure and  
Revenue Resources Commission, Special Subcommittee  
of  
Medicine, Board of  
- Advisory Board on Physical Therapy  
- Advisory Committee on Physician's Assistants  
Nursing, Board of  
- Special Conference Committee

## August 26

† Agricultural Council, Virginia  
Lottery Board, State  
Nursing, Board of  
- Special Conference Committee  
Outdoors Foundation, Virginia  
Youth and Family Services, State Board of

## August 27

Health Services Cost Review Council, Virginia  
Marine Resources Commission  
† Medicare and Medicare, Governor's Advisory Board  
on

## August 28

Compensation Board  
† Migrant and Seasonal Farmworkers Board  
Real Estate Board  
Waste Management, Department of

## August 29

Game and Inland Fisheries, Board of

## August 30

Game and Inland Fisheries, Board of

## September 3

† Higher Education for Virginia, State Council of  
Hopewell Industrial Safety Council

## September 4

Child Mental Health, Interagency Consortium on  
† Code Commission, Virginia  
† Higher Education for Virginia, State Council of  
† Nursing Home Administrators, Board of

## September 5

† Code Commission, Virginia  
† Community Corrections Resources Board, Middle  
Virginia Board of Directors and the Middle Virginia  
Emergency Planning Committee, Local - Chesterfield  
County  
Nursing Home Administrators, Board of

## September 6

Medicine, Board of  
- Advisory Board on Physical Therapy

# Calendar of Events

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## September 7

Military Institute, Virginia  
- Board of Visitors

## September 9

Land Evaluation Advisory Council, State

## September 11

† Corrections, Board of  
Emergency Response Council, Virginia  
† Historic Preservation Foundation, Virginia

## September 12

† Architects, Professional Engineers, Land Surveyors  
and Landscape Architects, Board for  
† Corrections, Board of  
- Liaison Committee  
† Waste Management, Department of

## September 13

Medicine, Board of  
- Advisory Committee on Optometry  
† Youth Services Commission

## September 16

Emergency Planning Committee, Local - County of  
Prince William, City of Manassas, and City of  
Manassas Park

## September 17

Real Estate Appraiser Board

## September 18

† Conservation and Development of Public Beaches,  
Board on  
Conservation and Recreation, Department of  
- Virginia Soil and Water Conservation Board  
† Transportation Board, Commonwealth

## September 19

Oil and Gas Drilling Under the Chesapeake Bay, Joint  
Subcommittee Studying the Environmental Impact of  
† Transportation Board, Commonwealth  
Voluntary Formulary Board, Virginia

## September 20

† Social Work, Board of

## September 21

† Social Work, Board of

## September 25

† Education, Board of

## September 26

† Aging, Department for the  
- Long-Term Care Ombudsman Program Advisory  
Council  
Compensation Board  
† Education, Board of  
† Transportation Safety Board

## October 3

Emergency Planning Committee, Local - Chesterfield  
County  
† Community Corrections Resources Board, Middle  
Virginia Board of Directors and the Middle Virginia

## October 30

† Education, Board of

## October 31

† Education, Board of

## PUBLIC HEARINGS

## August 13

Health, Department of  
- Office of Planning and Regulatory Services

## August 15

† Arts, Commission for the  
- Task Force on the Promotion of the Arts

## August 19

Nurse Midwives and Obstetric Care, Task Force to  
Study

## August 20

Local Government, Commission on

## August 29

Voluntary Formulary Board, Virginia

## September 4

Environment, Council on the  
Water Control Board, State

## September 5

Environment, Council on the  
Underground Injection Wells in the Commonwealth,  
Subcommittee Studying the Regulation of

## September 9

† Administrative Process Act, Joint Legislative Audit  
and Review Commission (JLARC) to Study the  
Housing and Community Development, Department of  
Water Control Board, State

## September 10

Housing and Community Development, Department of

## September 11

Housing and Community Development, Department of  
Water Control Board, State

## September 12

Housing and Community Development, Department of

## September 13