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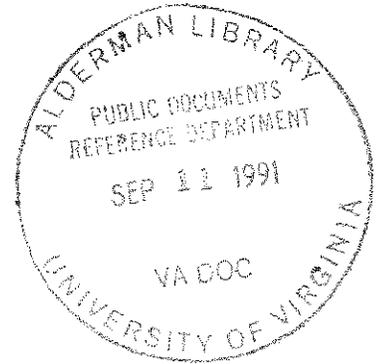
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THE VIRGINIA REGISTER

OF REGULATIONS



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VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

During this time, the Governor and the General Assembly will view 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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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.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

Title of Regulation: VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.

Statutory Authority: §§ 54.1-113 and 54.1-404 of the Code of Virginia.

Public Hearing Date: November 21, 1991 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulations apply directly to approximately 26,000 licensed, certified, or registered architects, professional engineers, land surveyors, landscape architects and the professional corporations and business entities that offer those professional services in Virginia, as well as interior designers. Substantive changes in the regulations include a section dealing with the qualifications for certification of interior designers. Changes in all other applicable areas have been made to accommodate this new certification program. Amendments have been made to accommodate Canadian applicants, the oral examination allowance for professional engineers has been phased out, some examination fees have been adjusted to accommodate national fee increases, branch office designations have been created for professional corporations and business entities that offer professional services, and standards of practice and conduct have been clarified.

VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.

PART I. GENERAL DEFINITIONS.

§ 1.1. As used in these regulations, unless the context requires a different meaning:

"Direct control and personal supervision" shall be that degree of supervision by a person overseeing the work of another whereby the supervisor has both control over and detailed professional knowledge of the work prepared under his supervision.

"Full time" means 60% or more of a licensee's gainfully

employed time.

"Good moral character" shall include, but shall not be limited to, compliance with the standards of practice and conduct as set forth in these regulations.

"Place of business" means any location which offers to practice or practices through licensed or certified professionals the services of architecture, professional engineering, land surveying and landscape architecture. A temporary field office set up for construction-related or land surveying services is not a place of business.

"Regulant" means licensee, certificate holder or registrant.

"Responsible charge" means the direct control and personal supervision of the practice of architecture, professional engineering, land surveying and certified landscape architecture.

PART II. GENERAL ENTRY REQUIREMENTS.

§ 2.1. Application requirements.

A. Fully documented applications with the noted exception shall be submitted by applicants seeking consideration for licensure, certification or registration with the appropriate fee(s) (check or money order only made payable to the Treasurer of Virginia) to be received in the board's office no later than 120 days prior to the scheduled examination. Applicants for the Fundamentals of Engineering examination enrolled in an ABET accredited curriculum who are within 12 months of completion of degree requirements may submit applications to be received in the board's office no later than 60 days prior to the scheduled examination. The date the completely documented application and fee are received in the board's office shall determine if an application has been received by the deadline set by the board. All applications should be completed according to the instructions contained herein. Applications are not considered complete until all required documents, including but not limited to references, employment verifications and verification of registration are received by the board. All applications, accompanying materials and references are the property of the board.

B. Applicants shall meet applicable entry requirements at the time application is made.

C. Applicants who have been found ineligible for any reason, may request further consideration by submitting in

Proposed Regulations

writing evidence of additional qualifications, training or experience. No additional fee will be required provided the requirements for licensure, certification or registration are met within a period of three years from the date the original application is received by the board. After such period, a new application shall be required.

D. The board may make further inquiries and investigations with respect to the qualifications of the applicant and all references, etc., to confirm or amplify information supplied. The board may also require a personal interview with the applicant.

E. Failure of an applicant to comply with a written request from the board for additional evidence or information within 60 days of receiving such notice, except in such instances where the board has determined ineligibility for a clearly specified period of time, may be sufficient and just cause for disapproving the application.

F. Applicants shall be held to the same standards of practice and conduct as set forth in these regulations.

G. National council information.

1. Architect applicants may obtain information concerning NCARB certification and the Intern Development Program from:

National Council of Architectural Registration Boards
(NCARB)
1735 New York Avenue, N.W., Suite 700
Washington, DC 20006
(202) 783-6500

2. Engineer and land surveyor applicants may obtain information concerning NCEES certificates from:

National Council of Examiners for Engineering and Surveying
(NCEES)
P.O. Box 1686
Clemson, South Carolina 29633-1686
(803) 654-6824

3. Landscape architect applicants may obtain information concerning CLARB registration from:

Council of Landscape Architectural Registration Boards
(CLARB)
Suite 110, 12700 Fair Lakes Circle
Fairfax, Virginia 22033
(703) 818-1300

4. Interior design applicants may obtain information concerning NCIDQ examination and certification from:

National Council for Interior Design Qualification
(NCIDQ)
118 East 25th Street
New York, New York 10010

(212) 473-1188

§ 2.2. Determining qualifications of applicants.

In determining the qualifications of an applicant for a license as an architect, a majority vote of only the architect members of the board shall be required. In determining the qualifications of an applicant for a license as a professional engineer, a majority vote of only the professional engineer members of the board shall be required. In determining the qualifications of an applicant for a license as a land surveyor, a majority vote of only the land surveyor members of the board shall be required; ~~and in~~ . In determining the qualifications of an applicant for certification as a landscape architect, a majority vote of only the certified landscape architect members shall be required; ~~and in~~ , and in determining the qualifications of an applicant for certification as an interior designer, a majority vote of only the certified interior designed members shall be required.

§ 2.3. Good standing of comity applicants.

An applicant licensed, certified or registered to practice architecture, professional engineering, land surveying ~~or~~ , landscape architecture or interior design in another jurisdiction shall be in good standing in every jurisdiction where licensed, certified or registered, and shall not have had a license certificate or registration suspended, revoked or surrendered in connection with a disciplinary action or who has been the subject of discipline in another jurisdiction prior to applying for licensure, certification or registration in Virginia.

§ 2.4. Transfer of scores to other boards.

The board, in its discretion and upon proper application, may forward the grades achieved by an applicant in the various examinations given under the board's jurisdiction to any other duly constituted registration board for use in evaluating such applicant's eligibility for registration within such board's jurisdiction or evaluation of such applicant's national certification. The applicant shall state his reason for requesting transfer and such transfer shall terminate the applicant's application pending before the board.

§ 2.5. Replacement of wall certificate.

Any licensee or certificate holder may obtain a replacement for a lost, destroyed, or damaged wall certificate only upon submission of a \$20 fee accompanied by a written request indicating that the certificate was lost, destroyed, or damaged.

§ 2.6. Modifications to examination administration.

Requests for modifications to the examination administration to accommodate physical handicaps must be made in writing and received in the board office no less than 120 days prior to the first day of the examination. Such a request must be accompanied by a physician's

report or a report by a diagnostic specialist, along with supporting data, confirming to the board's satisfaction the nature and extent of the handicap. After receipt of the request from the applicant, the board may require that the applicant supply further information or that the applicant appear personally before the board, or both. It shall be the responsibility of the applicant to timely supply all further information as the board may require. The board shall determine what, if any, modifications will be made.

PART III. QUALIFICATIONS FOR LICENSING OF ARCHITECTS.

§ 3.1. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$ 45
Renewal	75
ARE Exam (all divisions)	43
Division A	8
Division B written	67
Division B graphic	102
Division C	140
Division D/F	77
Division E	62
Division G	83
Division H	84
Division I	81
Out of State proctor	50

§ 3.2. Character.

Applicants must be of good moral character.

§ 3.3. Education.

A. All applicants shall obtain five years of professional education or equivalent education credits. Education credits shall be calculated in accordance with Table I.

B. On or after January 1, 1993, all applicants shall hold a professional degree in architecture where the degree program has been accredited by the National Architectural Accrediting Board (NAAB) not later than two years after termination of enrollment.

§ 3.4. Experience.

A. All applicants shall have three years of training in the essential areas of architectural practice as defined

below. Evidence shall be in the form of official records of a structured internship development program approved by the board, or incorporated in the candidate's application and verified by employers. Experience shall include:

1. A minimum of 18 months in the area of design and construction documents directly related to the practice of architecture; and
2. A minimum of five months in the area of construction administration directly related to the practice of architecture; and
3. A minimum of three months in the area of office management directly related to the practice of architecture.

Training credits shall be calculated in accordance with Table I.

B. The Intern-architect Development Program (IDP) shall be required of all applicants on or after January 1, 1993. An applicant shall be enrolled in IDP for a period of one year or more prior to submitting an application for examination in Virginia. IDP training requirements shall be in accordance with Part II of Table I.

§ 3.5. References.

Eligibility for licensure is determined in part by the applicant's demonstrated competence and integrity to engage in the practice of architecture. Applicants shall submit three references with the application, all of whom are licensed architects in a jurisdiction or territory of the United States. These professionals shall have personal knowledge of the applicant's architectural experience and have known the applicant for at least one year. References shall be current for one year.

§ 3.6. Examination.

A. All applicants for original licensing in Virginia are required to pass an Architect Registration Examination (ARE) after meeting the education and training requirements as provided in these regulations.

B. The Virginia board is a member of the National Council of Architectural Registration Boards (NCARB) and as such is authorized to administer the NCARB examinations.

C. Grading of the examination shall be in accordance with the national grading procedure administered by NCARB. The board shall adopt the scoring procedures recommended by NCARB.

D. The Architect Registration Examination (ARE) will be offered at least once a year at a time designated by the board.

E. The board may approve transfer credits for parts of

Proposed Regulations

the examination taken prior to the 1983 ARE. Transfer of credits will be in accordance with national standards.

F. Unless otherwise stated, applicants approved to sit for an examination shall register and submit the required examination fee to be received in the board office at a time designated by the board. Applicants not properly registered shall not be allowed into the examination site.

G. Examinees will be given specific instructions as to the conduct of each division of the exam at the exam site. Examinees are required to follow these instructions to assure fair and equal treatment to all examinees during the course of the examination. Evidence of misconduct may result in voided examination scores or other appropriate disciplinary action.

H. Scores.

Examinees will be advised only of passing or failing the examination. Only the board and its staff shall have access to examination papers, scores and answer sheets.

I. Should an applicant not pass an examination within three years after being approved, the applicant must reapply and meet all current entry requirements.

§ 3.7. License by comity.

A. Any person licensed in another state, jurisdiction or territory of the United States *or province of Canada* may be granted a license without written examination, provided that:

1. The applicant meets all the requirements for licensing in Virginia or possesses an NCARB certificate; and

2. The applicant holds a currently active valid license in good standing in ~~the~~ *another state, jurisdiction of original licensure or territory of the United States or province of Canada* .

3. Applicants who were registered in their ~~base state~~ *jurisdiction of original licensure* without IDP must submit a verified record of experience in accordance with § 3.4.

~~B. The board may accept a currently valid license in good standing from the applicant's current base state if transferred from the jurisdiction of original licensure.~~

C. ~~B.~~ Applicants licensed in foreign countries may be granted a license in Virginia based on an NCARB certificate.

DEPARTMENT OF COMMERCE
BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS,
LAND SURVEYORS AND LANDSCAPE ARCHITECTS

TABLE 1.
REQUIREMENTS FOR ARCHITECTURAL LICENSE

PART 1
EDUCATION AND TRAINING
REQUIREMENTS

EDUCATION AND TRAINING REQUIREMENTS RELEASED: JANUARY, 1990;
THIS EDITION SUPERSEDES ALL PREVIOUS TABLES OF EQUIVALENTS.
LICENSE-ARCHITECT DEVELOPMENT PROGRAM (LADP) APPLICANTS REFER TO
PART II FOR THEIR TRAINING REQUIREMENTS. (Complete information
may be obtained from NCAS-3)

Education Credits	Succeeding Years		Max. Credit Allowed		Training Credits	
	First	Second	Max. Credit Allowed	Max. Credit Allowed	Training Credit Allowed	Max. Credit Allowed
A-1 First professional degree in architecture, or credits toward the first professional degree, where the degree program has been approved by the board not later than two years after termination of enrollment.	75%	100%	5 years	5 years		
A-2 First professional degree in architecture, or credits toward that degree, where the degree program has not been approved by the board.	75%	75%	4 years	4 years		
A-3 Bachelor degree, or credits toward that degree, in architectural engineering, architectural technology, or in civil, mechanical, electrical, or chemical engineering or architecture, each of the above being approved by the board.	50%	75%	3 years	3 years		
A-4 Any other bachelor degree.			2 years	2 years		
A-5 Diversified experience in architecture as an employee in the offices of licensed architects.	50%	50%	5 years	5 years	100%	no limit
A-6 Diversified experience in architecture as a principal practicing in the office of a licensed architect with a verified record of substantial practice.	50%	50%	5 years	5 years	100%	no limit
A-7 Diversified experience in architecture as an employee of an organization (other than offices of registered architects) when the experience is under the direct supervision of a registered architect.	50%	50%	4 years	4 years	100%	2 years
A-8 Experience directly related to architecture, when under the direct supervision of a registered architect, but persons may not be credited with experience or when under the direct supervision of a professional engineer, landscape architect, interior designer, or planner.	0	0			50%	1 year

DEPARTMENT OF COMMERCE
BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS,
LAND SURVEYORS AND LANDSCAPE ARCHITECTS

A-9
Experience, other than A-5, A-6, A-7 or A-8 experiences, directly related to on-site building construction operations or experience involving physical analysis of existing buildings

A-10
Other Education or Training Experience
(See B-3.1.2)

0 50% 6 months

EXPLANATION OF TABLE

- B-1 Education Credits Education Credits shall be subject to the following conditions:
- B-1 .1 No education credits may be earned prior to graduation from high school.
 - .2 Applicants with the degree specified in A-1 through A-4 will be allowed the credit shown in the Maximum Credit Allowed column of the table. Applicants without the degree specified in A-1 or A-2 may accumulate more than 3 years of education credits in the aggregate from all degree programs.
 - .3 32 semester credit hours or 48 quarter credit hours are considered to be 1 year. Fractions of a year or semester (or greater) will be considered one-half year, and smaller fractions will not be counted.
 - .4 Foreign education credits will be granted only under classifications A-2 and A-4. Any course of instruction and evaluation will be borne by the applicant.

B-2 Training Credits Training credits shall be subject to the following conditions:

- B-2 .1 No training credits may be earned prior to accumulating 2 1/2 education credits. Every applicant must earn at least one year of training credit under A-5 or A-6 and must earn it after earning 5 years of education credits.
- .2 No credit used as an education credit may be used as a training credit.
- .3 Organizations will be considered to be "offices of registered architects": (a) the architectural practice of the organization in which the applicant works is in the charge of a registered architect, and (b) the organization is not engaged in construction of a project in which the applicant is engaged in construction. The organization has no affiliate engaged in construction which has a substantial economic impact upon the person or persons in the organization practicing as a principal.
- .4 An organization (or an affiliate) is engaged in construction if it customarily engages in either of the following activities:
 - (a) providing labor and/or material for all or any significant portion of a construction project, whether on lump sum, cost plus or other basis of compensation,
 - (b) agrees to guarantee to an owner the maximum construction cost for all or any significant portion of a construction project.
- .5 A person practices as a "principal" by being a registered architect and the person in charge of the organization's architectural practice, either alone or with other registered architects.
- .6 In evaluating training credits the Board may, prior to licensure, require the applicant to demonstrate training experience by comparing this experience to the Training Requirements as shown for the Intern-Architect Development Program (IDP). See IDP Training Requirements below.

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B-3 General Evaluation Criteria

- 8-3 .1 To earn full education or training credits under A-5, A-6, A-7, A-8 and A-9 an applicant must work at least 35 hours per week for a minimum period of ten consecutive weeks under A-5 or 6 consecutive months under A-6, A-7, A-8 or A-9. An applicant may earn one-half of the credit specified under A-5 for each of at least 20 consecutive weeks or one-half of the credit specified under A-6 for each of at least 20 consecutive months. No credit will be given for part-time work in any category other than A-5.
- .2 Other education and training may be substituted for the requirements outlined above, only insofar as the board considers them to be equivalent to the required qualifications.
- .3 In evaluating credits, the board may, prior to registration, require substantiation of the quality and character of the applicant's experience, notwithstanding the fact that the applicant has complied with the technical education and training requirements set forth above.

TRAINING REQUIREMENTS FOR INTERMEDIATE DEVELOPMENT PROGRAM (IDP) APPLICANTS

- PART 11
IDP Applicant Defined
An IDP applicant for registration is a person who has completed the IDP training requirements listed below and satisfied the requirements of Part 1.
- Training Requirements
An IDP Applicant must acquire a total of 700 value units (VUs) to satisfy the training requirements. One VU equals 8 hours of acceptable activity. See Part I for acceptable experience descriptions.

The following chart lists the IDP training categories and areas and the value unit requirements for each.

CATEGORY A		CATEGORY C	
Design and Construction Documents	Minimum VUs Required	Office Management	Minimum VUs Required
1. Programming-Client Contact.....	10	13. Project Management.....	15
2. Schematic Design.....	10	14. Office Procedures.....	15
3. Code Research.....	10	15. Professional-Activities.....	10
4. Design Development.....	15	16. Office Management.....	10
5. Construction Documents.....	15		
6. Specifications & Materials.....	15		
7. Research, Checking and Coordination.....	15		
8. Construction Phase-Observation.....	15		
9. Construction Administration.....	15		
10. Bidding & Contract Negotiation.....	15		
11. Construction Phase-Observation.....	15		
12. Construction Phase-Observation.....	15		
Minimum Total VUs Required	360-350*	Minimum Total VUs Required	35*

CATEGORY B		CATEGORY D	
Construction Administration	Minimum VUs Required	Professional and Community Service	Minimum VUs Required
1. Construction Administration.....	0	15. Professional and Community Service.....	10
2. Construction Administration.....	0	16. Minimum VUs Required.....	3
3. Construction Administration.....	0	17. Minimum VUs Required.....	3
4. Construction Administration.....	0	18. Minimum VUs Required.....	3
5. Construction Administration.....	0	19. Minimum VUs Required.....	3
6. Construction Administration.....	0	20. Minimum VUs Required.....	3
7. Construction Administration.....	0	21. Minimum VUs Required.....	3
8. Construction Administration.....	0	22. Minimum VUs Required.....	3
9. Construction Administration.....	0	23. Minimum VUs Required.....	3
10. Construction Administration.....	0	24. Minimum VUs Required.....	3
11. Construction Administration.....	0	25. Minimum VUs Required.....	3
12. Construction Administration.....	0	26. Minimum VUs Required.....	3
Minimum Total VUs Required	70*	Minimum Total VUs Required	30*

*The differences between the minimum total VUs required in each of categories A, B and C and the sum of the minimums required in each category are the minimum VUs that must be acquired by earning VUs from training areas within the same category.

The following chart lists the IDP training categories and areas and the value unit requirements for each.

CATEGORY D	
Professional and Community Service	Minimum VUs Required
15. Professional and Community Service.....	10
16. Minimum VUs Required.....	3
17. Minimum VUs Required.....	3
18. Minimum VUs Required.....	3
19. Minimum VUs Required.....	3
20. Minimum VUs Required.....	3
21. Minimum VUs Required.....	3
22. Minimum VUs Required.....	3
23. Minimum VUs Required.....	3
24. Minimum VUs Required.....	3
25. Minimum VUs Required.....	3
26. Minimum VUs Required.....	3
Minimum Total VUs Required	30*

*The differences between the minimum total VUs required in each of categories A, B and C and the sum of the minimums required in each category are the minimum VUs that must be acquired by earning VUs from training areas within the same category.

The following chart lists the IDP training categories and areas and the value unit requirements for each.

CATEGORY E	
Professional and Community Service	Minimum VUs Required
15. Professional and Community Service.....	10
16. Minimum VUs Required.....	3
17. Minimum VUs Required.....	3
18. Minimum VUs Required.....	3
19. Minimum VUs Required.....	3
20. Minimum VUs Required.....	3
21. Minimum VUs Required.....	3
22. Minimum VUs Required.....	3
23. Minimum VUs Required.....	3
24. Minimum VUs Required.....	3
25. Minimum VUs Required.....	3
26. Minimum VUs Required.....	3
Minimum Total VUs Required	30*

*The differences between the minimum total VUs required in each of categories A, B and C and the sum of the minimums required in each category are the minimum VUs that must be acquired by earning VUs from training areas within the same category.

Explanation of Requirements

1. VUs in categories A, B and C may be acquired only if the applicant meets the time requirements of B-3.1 of Part 1. VUs may be acquired in category D only if the activity is substantial and continuous.
2. Full VU credit is earned for acceptable full-time employment in the settings described in A-8 and A-9 of Part 1, and for acceptable part-time employment in the setting described in A-5 of Part 1.
3. No VUs may be acquired prior to satisfactory completion of:
- three years in an NAB accredited bachelor degree program, or
 - the third year of a four year pre-professional degree program in architecture accepted for direct entry to an NAB accredited master's degree program, or
 - one year in an NAB accredited master's degree program, or
 - 36 semester credit hours as evaluated by ESM in accordance with NCARB Circular of Information No. 3 of 1984, or
 - five education credits as of June 30, 1984.
4. 32 semester credit hours or 48 quarter credit hours shall equal one year in an academic program.
5. A master's or doctoral degree in architecture (except where the degree is the first professional degree) qualifies for 235 VUs under category D.
6. An IDP applicant may earn VUs by completing NCARB approved supplementary education programs; credit to be in accordance with a table of credits established by NCARB. Supplementary education cannot be used to satisfy the requirements of Part 1. No VUs may be earned for supplementary education prior to meeting the requirements of A-1 of Part 1 or while enrolled in a second professional degree program in architecture.
7. The VUs which may be earned under paragraph 3 and 4 may not exceed in the aggregate 235 VUs.
8. To satisfy categories A and B of the training requirements, VUs (including VUs earned from supplementary education) in these categories must be acquired when employed in the settings described in A-5 or A-7 of Part 1.
9. A minimum of 235 VUs must be acquired in the setting described in A-5 of Part 1 after having satisfied A-1. In evaluating training, NCARB may, prior to certification, require substantiation of the quality and character of the training notwithstanding the fact that the IDP applicant has complied with the technical training requirements set forth above.
10. For detailed descriptions of the IDP training categories and supplementary education requirements, see IDP Guidelines available through NCARB.

PART IV.
QUALIFICATIONS FOR LICENSING OF
PROFESSIONAL ENGINEERS.

§ 4.1. Definitions.

The following definitions shall apply in the regulations relating to the licensing of professional engineers.

“ABET” means the Accreditation Board for Engineering and Technology.

“Approved engineering curriculum” means an engineering curriculum of four years or more approved by the board. ABET approved engineering curricula are approved by the board.

“Approved engineering technology curriculum” means an ABET approved engineering technology curriculum.

“Approved professional experience” means a specific record of acceptable professional experience which the board, in its discretion, judges to be pertinent in acquiring engineering skills, on engineering projects of a grade and character indicating that the applicant may be competent to practice engineering.

“Engineering examination” means an eight-hour written examination in the Fundamentals of Engineering and an eight-hour written examination in the Principles and Practice of Engineering where required.

“Engineer-in-training (EIT) designation” means the designation of an applicant who completes any one of several combinations of education, or education and experience, and passes the Fundamentals of Engineering examination.

§ 4.2. Fee schedule.

All fees are nonrefundable and shall not be prorated.

FE Application	\$ 25	
PE Application	65	
Renewal	65	
FE Examination	45	
PE Examination	100	110 (7-1-92)
PE Exam rescore	50	
FE/PE Out of State Proctor	50	
Oral Examination	100	(This fee will be deleted as of July 1, 1992)

§ 4.3. Character.

Applicants must be of good moral character.

§ 4.4. Requirements for Fundamentals of Engineering (FE) exam.

Applicants who are enrolled in an ABET accredited curriculum and are within 12 months of completion of degree requirements are eligible for the FE exam. Applications must be accompanied by a certificate of good standing from the dean of the engineering school.

All other applicants must meet the eligibility requirements in § 4.5 below.

§ 4.5. Requirements for engineer-in-training (EIT) designation.

The minimum education, experience and examination requirements for the engineer-in-training (EIT) designation are as follows:

1. An applicant who has graduated from an approved engineering or approved engineering technology curriculum of four years or more and has passed an eight-hour written examination in the Fundamentals of Engineering; or
2. An applicant who has graduated from a nonapproved engineering curriculum or a related science curriculum of four years or more, with a specific record of two or more years of approved professional experience and has passed the Fundamentals of Engineering examination; or
3. An applicant who has graduated from a nonapproved engineering technology curriculum or who has not graduated from an engineering or related science curriculum of four years or more but who, in the judgment of the board, has obtained the equivalent of such graduation as described, by self-study or otherwise, and has acquired six additional years of approved professional experience and has passed the Fundamentals of Engineering examination. Experience used to determine educational equivalency shall not be used in satisfying professional experience.

The engineer-in-training (EIT) designation shall remain valid indefinitely.

§ 4.6. Requirements for professional engineering license.

The minimum education, experience and examination requirements for licensing as a professional engineer are as follows:

1. An applicant who has graduated from an approved engineering curriculum, has passed the Fundamentals of Engineering examination or an equivalent exam, has a specific record of at least four years of progressive approved professional experience, and has passed the Principles and Practice of Engineering examination, provided, however, any applicant who has been awarded both an ABET accredited

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undergraduate engineering degree and a doctorate degree in engineering from an engineering curriculum which is ABET accredited at the undergraduate level may have the Fundamentals of Engineering examination waived; or

2. An applicant who has graduated from a nonapproved engineering curriculum, a related science curriculum of four years or more, or an approved engineering technology curriculum, who has passed the Fundamentals of Engineering examination or an equivalent exam, has acquired a specific record of at least six years of progressive approved professional experience, and has passed the Principles and Practice of Engineering examination; or

3. An applicant who has not graduated from an approved engineering curriculum of four years or more but who has obtained the equivalent of such graduation by self-study or otherwise, has passed the Fundamentals of Engineering exam or an equivalent examination, has acquired 10 years of approved professional experience, and has passed the Principles and Practice of Engineering examination. Experience used to determine educational equivalency shall not be used in satisfying professional experience; or

4. An applicant who has graduated from an engineering, engineering technology or related science curriculum of four years or more, who has acquired a specific record of 20 years or more of approved progressive professional experience on engineering projects of a grade and character which the board judges to be pertinent to acquiring professional skills, such that the applicant may be competent to practice engineering, and has passed the examination in the Principles and Practice of Engineering; or

5. An applicant who has graduated from an engineering, engineering technology, or related science curriculum of four years or more, and who has acquired a specific record of 30 years or more of approved progressive professional experience on engineering projects of grade and character which the board judges to be pertinent to acquiring professional skills, demonstrating that the applicant is eminently qualified to practice engineering, shall pass an oral examination which indicates to the board that the applicant is eminently qualified to practice engineering. If the board has any doubt concerning an applicant's eminent qualifications, the applicant shall be reclassified as an examination candidate.

Applications from individuals qualifying under this section will be accepted by the board until July 1, 1992. All applicants for oral examination must qualify on or before July 1, 1992.

§ 4.7. References.

A. References for Fundamentals of Engineering

examination.

Applicants for the Fundamentals of Engineering examination only shall provide one reference from a professional engineer, or from the dean of the engineering school or a departmental professor in the school attended by the applicant, or an immediate work supervisor. Any reference provided shall be from a person who has known the applicant for at least one year. References may not also verify professional experience.

B. References for Principles and Practice of Engineering examination.

To be eligible for admission to the Principles and Practice of Engineering examination, an applicant must indicate competence and integrity to engage in the engineering profession by submitting three references with the application, all of whom shall be licensed professional engineers in a state or territory of the United States. The professional engineers providing the references shall have personal knowledge of the applicant's engineering experience and shall have known the applicant for at least one year. References shall be no more than one year old at the time the applicant is approved to take the requisite examination. References may not also verify professional experience.

§ 4.8. Education.

Any applicant who has attended an institution not located in the United States shall have his degree evaluated by an educational evaluation service or by ABET if credit for such education is sought. The board reserves the right to reject any evaluation submitted by the applicant.

§ 4.9. Training and experience.

Professional engineering training and experience shall be progressive in complexity and based on a knowledge of engineering mathematics, physical and applied sciences, properties of materials, and fundamental principles of engineering design, provided:

1. In general, experience in sales, drafting, estimating, field surveying, nonengineering military service, and inspection are considered nonqualifying;

2. Engineering experience gained by graduate engineering study or by engineering teaching as an instructor or higher in an institution approved by the board may be deemed professional experience;

3. Engineering experience gained during a board-approved co-op program may be deemed professional experience to a maximum of one year of credit;

4. The board, in its sole discretion, may permit partial credit, not to exceed 1/4 of that required, for

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approved professional experience obtained prior to graduation from an engineering curriculum.

§ 4.10. Language and comprehension.

Every applicant *applying for licensure as a professional engineer* shall be able to speak and write English. ~~An~~ *Such an* applicant from a non-English speaking country or a country wherein the primary language is other than English shall submit to the board a TOEFL (Test of English as a Foreign Language) score report with a minimum score of 560, and a TSE (Test of Spoken English) score report with a minimum score of 255. Score reports shall not be over two years old at the time of application.

§ 4.11. Examinations.

A. The Virginia board is a member of the National Council of Examiners for Engineering and Surveying (NCEES) and as such is authorized to administer the NCEES examinations.

B. The Fundamentals of Engineering examination consists of an eight-hour test period on the fundamentals of engineering, and is given semiannually at times designated by the board.

C. The Principles and Practice of Engineering examination consists of an eight-hour test period on applied engineering and is given semiannually at times designated by the board.

D. Unless otherwise stated, applicants approved to sit for an examination shall register and submit the required examination fee to be received in the board office at a time designated by the board. Applicants not properly registered shall not be allowed into the examination site.

E. A candidate eligible for admission to both parts of the examination must first successfully complete the fundamentals of engineering examination before being admitted to the principles and practice of engineering examination.

F. Examinees will be given specific instructions as to the conduct of each examination at the exam site. Examinees are required to follow these instructions to assure fair and equal treatment to all examinees during the course of the examination. Evidence of misconduct may result in voided examination scores or other appropriate disciplinary action.

G. The oral exam shall consist of a review of the engineering background and examples of the work of the professional engineering candidate in the presence of the Professional Engineer Section of the board. This examination may encompass any facts appearing in the application and supporting papers of the candidate and such direct evidence as the candidate may desire to present to the board to substantiate the breadth and depth

of professional engineering experience, primarily in experience in engineering design and analysis.

1. Substantiating evidence shall be in the form of drawings, sketches, reports, specifications, calculations, published articles, textbooks, or other suitable information demonstrating the engineering experience of the candidate. Based upon this information, the candidate will be subject to questions regarding principles of engineering followed in the execution of such work.

2. The candidate shall demonstrate that the experience record is of a professional level and shall leave no doubt as to the ability to protect the public in the practice of engineering. Failure to demonstrate this ability shall result in reclassification.

H. Grading.

Grading of the examinations shall be in accordance with national grading procedures established by NCEES.

Each part of the written examination will have a value of 100. A passing score shall be 70 and above. Candidates will be notified of passing or failing and their actual scores.

I. Should an applicant not pass an examination within three years after being approved, the applicant must reapply and meet all current entry requirements.

J. Examination reviews.

The Fundamentals of Engineering examination may not be reviewed by the candidates. Examination scores are final and are not subject to change.

Upon written request to the board within 30 days of receiving exam results, candidates for the Principles and Practice of Engineering examination will be permitted to review only their own failed examination. Score appeals may be accepted in accordance with board policy.

§ 4.12. License by comity.

A person holding a license to engage in the practice of engineering, issued to the applicant by another state, territory or possession of the United States, or the District of Columbia, based on requirements that do not conflict with and are at least as vigorous as these regulations and supporting statutes of this board, may be licensed without further examination. No person shall be so licensed, however, who has not passed a written examination in another jurisdiction which is substantially equivalent to that administered by the board.

PART V. QUALIFICATIONS FOR LICENSING AND STANDARDS OF PROCEDURE FOR LAND SURVEYORS.

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§ 5.1. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application for Fundamentals of Surveying	\$ 60	
Application for Principles of Surveying	95	
Renewal	155	
Fundamentals of Surveying Examination	65	80 (7-1-92)
Principles of Surveying Examination	65	85 (7-1-92)
Principles (AM) and/or Colonial Domain Exam	65	
Virginia State Examination	30	
Application for Land Surveyor B	95	
Examination for Land Surveyor B	35	
Out of State Proctor	50	

§ 5.2. Character.

Applicants must be of good moral character.

§ 5.3. Requirements for land surveyor-in-training.

The education or experience, or both, and examination requirements for land surveyor-in-training status are as follows:

1. An applicant who has graduated from a surveying or surveying technology curriculum of four years or more approved by the board as being of satisfactory standing shall be admitted to an eight-hour written examination in the Fundamentals of Land Surveying. Upon passing such examination, the applicant shall be enrolled as a land surveyor-in-training, if he is otherwise qualified.
2. An applicant who has graduated from a curriculum related to surveying of four years or more as approved by the board and with a specific record of two years of progressive, approved professional experience in land surveying shall be admitted to an eight-hour examination in the Fundamentals of Land Surveying. Upon passing such examination, the applicant shall be enrolled as a land surveyor-in-training, if he is otherwise qualified.
3. An applicant who has graduated from an unrelated to surveying curriculum of four years or more as acceptable to the board with a specific record of four years of approved professional experience in land surveying of which three of these years shall be progressive, shall be admitted to an eight-hour examination in the Fundamentals of Land Surveying. Upon passing such examination, the applicant shall be enrolled as a land surveyor-in-training, if he is otherwise qualified.

4. An applicant who has graduated from a surveying curriculum of two years or more approved by the board with a specific record of six years of approved professional experience in land surveying of which four of these years shall be progressive, shall be admitted to an eight-hour written examination in the Fundamentals of Land Surveying. Upon passing such examination, the applicant shall be enrolled as a land surveyor-in-training, if he is otherwise qualified.

5. An applicant who has successfully completed a survey apprenticeship program approved by the board with at least 480 hours of surveying related classroom instruction with a specific record of eight years of approved professional experience in land surveying of which six of these years shall be progressive, shall be admitted to an eight-hour written examination in the Fundamentals of Land Surveying. Upon passing such examination, the applicant shall be enrolled as a land surveyor-in-training, if he is otherwise qualified.

6. An applicant who has graduated from high school with evidence of successful completion of courses in algebra, geometry and trigonometry with a specific record of ten years of approved professional experience in land surveying of which eight of these years shall be progressive, shall be admitted to an eight-hour written examination in the Fundamentals of Land Surveying. Applicants who have accumulated college credits may apply credit hours approved by the board to help meet the experience requirement. One year of experience credit will be given for a semester hours of approved college credit. Upon passing such examination, the applicant shall be enrolled as a land surveyor-in-training, if he is otherwise qualified.

§ 5.4. Requirements for a licensed land surveyor.

A land surveyor-in-training with a specific record of four years of approved professional experience, of which a minimum of three years of progressive experience has been on land surveying projects under the supervision of a licensed land surveyor, shall be admitted to an eight-hour written examination in the Principles and Practice of Land Surveying. Upon passing such examination the applicant shall be granted a license to practice land surveying, provided the applicant is otherwise qualified.

§ 5.5. Requirements for a licensed land surveyor B.

A. An applicant shall hold a valid license as a land surveyor and present satisfactory evidence of two years of progressive professional experience in land surveyor B professional land surveying, as defined in § 54.1-408 of the Code of Virginia, under the supervision and direction of a licensed land surveyor B or professional engineer.

B. An applicant shall also present satisfactory evidence of having passed college level courses in hydraulics, acceptable to the board.

C. An applicant shall pass an eight-hour written examination as developed by the board. Upon passing such examination the applicant shall be granted a license as a Land Surveyor B, if he is otherwise qualified.

§ 5.6. Education.

Any applicant who has attended an institution not located in the United States shall have his degree evaluated by an education evaluation service if credit for such education is sought. The board reserves the right to reject any evaluation submitted by the applicant.

§ 5.7. Experience standards.

A. "Approved professional experience" means diversified training in land surveying under the supervision and direction of a licensed land surveyor. This experience shall have been acquired in positions requiring the exercise of independent judgment, initiative and professional skill in the office and field. Experience may be gained either prior to or after education is obtained.

B. An applicant shall submit written verification from a licensed land surveyor of work experience from each employment engagement utilized as professional experience on forms provided by the board.

§ 5.8. Examinations.

A. The examination for land surveying under § 54.1-400 of the Code of Virginia shall consist of two parts, each part being of eight hours duration. Part I shall consist of an eight-hour examination in the Fundamentals of Land Surveying. Part II shall consist of a four-hour examination in the Principles and Practice of Land Surveying, a three-hour Colonial Domain examination, and a one-hour Virginia State examination. These examinations shall be given semiannually at times designated by the board.

B. The examination for land surveying under § 54.1-408 of the Code of Virginia (Land Surveyor B) shall be of eight hours duration and shall be given annually at a time designated by the board.

C. Unless otherwise stated, applicants approved to sit for an examination must register and submit the required examination fee to be received in the board office at a time designated by the board. Applicants not properly registered shall not be allowed into the examination site.

D. Grading.

Candidates shall be notified of passing or failing but shall not be notified of actual scores. Only the board and its staff shall have access to examination papers, scores and answer sheets. Examinations may not be reviewed.

1. Part I of the written examination shall have a value of 100. The passing grade shall be 70 or above.

2. Each portion of the Part II of the written examination shall have a value of 100. The passing grade shall be 70 or above.

3. For the Land Surveyor B examination, each applicant must obtain a minimum passing grade of 75 out of 100 for the entire eight-hour examination.

E. Reexamination.

Upon payment of a reexamination fee, an applicant may retake parts of the written examination which may have been failed. Should the applicant not pass an examination within three years after being approved, the applicant must reapply and meet all current entry requirements.

§ 5.9. Licensure by comity.

A person holding a license to engage in the practice of land surveying issued on comparable qualifications from a state, territory or possession of the United States and experience satisfactory to the board, will be given comity consideration. Full credit will be given to an applicant who has passed the NCEES examinations for surveyors in other jurisdictions as required in Virginia. However, the applicant may be required to take such examinations as the board deems necessary to determine his qualifications, but in any event, he shall be required to pass a written Virginia State examination of not less than one hour in duration. The examination shall include questions on law, procedures and practices pertaining to land surveying in Virginia.

§ 5.10. Minimum standards and procedures for land boundary surveying practice.

The following minimum standards and procedures are to be used in the Commonwealth of Virginia. The application of the ~~land surveyor's~~ *professional's* seal and signature as required by these regulations shall be evidence that the boundary survey or other land survey to be used for conveyance of title or mortgage purposes is correct to the best of the ~~land surveyor's~~ *professional's* knowledge and belief, and complies with the minimum standards and procedures.

A. Research procedure.

The ~~land surveyor~~ *professional* shall search the land records for the proper description of the land to be surveyed and obtain the description of adjoining land as it pertains to the common boundaries. The ~~land surveyor~~ *professional* shall have the additional responsibility to utilize any other available data pertinent to the survey being performed from any other source that is known. Evidence found, from all sources, shall be carefully compared with that located and found in the field survey in order to establish the correct boundaries of the land being surveyed. It is not the intent of this regulation to require the ~~land surveyor~~ *professional* to research the question of title or encumbrances on the land involved.

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B. Minimum field procedures.

1. Angular measurement. Angle measurements made for traverse or boundary survey lines will be made by using a properly adjusted transit type instrument which allows a direct reading to a minimum accuracy of 30 seconds of arc or metric equivalent. The number of angles turned a given station or corner will be the number which, in the judgment of the ~~land~~ *surveyor professional*, can be used to substantiate the average true angle considering the condition of the instrument being used and the existing field conditions.

2. Linear measurement. Distance measurement for the lines of traverse or boundary surveys shall be made with metal tapes which have been checked and are properly calibrated as to incremental distances, or with properly calibrated electronic distance measuring equipment following instructions and procedures established by the manufacturer of such equipment. All linear measurements shall be reduced to the horizontal plane and other necessary corrections performed before using for computing purposes.

3. Field traverse and boundary closure. The maximum permissible error of closure for a field traverse in connection with a boundary survey located in a rural area shall be one foot in 5,000 feet or metric equivalent of perimeter length. The attendant angular closure shall be that which will sustain the 1/5,000 foot closure. The maximum permissible error of closure for a traverse in connection with a boundary survey located in an urban area shall be one foot in 10,000 feet or metric equivalent of perimeter length. The attendant angular closure shall be that which will sustain the 1/10,000 foot closure.

C. Office procedures.

1. Computations. The computation of field work data shall be accomplished by using the mathematical routines that produce closures and mathematical results that can be compared with descriptions and data of record. Such computations shall be used to determine the final boundary of the land involved.

2. Plats and maps. The following information shall be shown on all plats or maps, or both, used to depict the results of the boundary survey:

- a. The title of the boundary plat identifying the land surveyed and showing the district and county or city in which the land is located.
- b. The owner's name and deed book referenced where the acquisition was recorded.
- c. Names of all adjacent owners or subdivision lot designations.
- d. Names of highways and roads with route number,

railroads, streams adjoining or running through the land, and other prominent or well-known objects or areas which are informative as to the location of the boundary survey.

e. Bearings of all property lines to nearest 10 seconds, or metric equivalent.

f. Distances of all property lines to the nearest one hundredth (.01) of a foot or metric equivalent.

g. Area to the nearest hundredth (.01) of an acre or metric equivalent for rural located surveys.

h. Area to the nearest square foot or decimal of an acre or metric equivalent for urban located surveys.

i. North arrow and source of meridian used for the survey.

j. On interior surveys, a reference distance to a property corner of an adjoining owner.

k. Tax map designation of parcel number if available.

l. Each monument found and each monument set by the ~~land~~ *surveyor professional*.

m. A statement that the boundary survey shown is based on a current field survey. If the land boundaries shown on the plat are the result of a compilation from deed or plats, or both, by others, that fact will be clearly stated and the title of plat shall not represent a current boundary survey.

n. Name and address of the ~~land~~ *surveyor professional*.

D. Monumentation.

1. Each boundary survey of a tract or parcel of land shall be monumented with objects made of permanent material at all corners and changes in direction on the boundary with the exceptions of meanders of streams, tidelands, swamps, and roads. Where it is not feasible to set actual corners, appropriate reference markers shall be set, preferably on line, and the location of each shown on the plat or map of the boundary.

2. Original subdivision surveys shall be monumented in accordance with subdivision 1 above. Corner monuments are required to be set on subdivision lots or parcels of land to be used for conveyance of title or mortgage purposes, or, if found to be correctly in place, identified by witness stakes. The plat of such survey shall show corner monuments found and those set.

PART VI.

QUALIFICATIONS FOR CERTIFICATION OF LANDSCAPE ARCHITECTS.

§ 6.1. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$75				
Renewal	105				
UNE Examination	303	(1992)	375	(1993)	405
Section 1	44		*		*
Section 2	51				
Section 3	100				
Section 4	116				
Section 5	97				
Out of State Proctor	50				

* Beginning in 1992, the previous 5-section examination will change to a 7-section examination. A schedule of fees for each individual section (actual cost plus administration cost) is available from the board.

§ 6.2. Character.

Applicants must be of good moral character.

§ 6.3. Requirements for certification.

The education or experience, or both, and examination requirements for certification as a landscape architect are as follows:

1. An applicant who has graduated from an accredited landscape architecture curriculum approved by the board shall be admitted to a written examination. Upon passing such examination, the applicant shall be certified as a landscape architect, if he is otherwise qualified.

2. An applicant who has obtained eight years of combined education and experience, evaluated in accordance with Table II, shall be admitted to a written examination approved by the board. Upon passing such examination, the applicant shall be certified as a landscape architect, if he is otherwise qualified.

§ 6.4. Experience standard.

Professional landscape architectural training and experience shall be progressive in complexity and based on a knowledge of natural, physical and mathematic sciences, and the principles and methodology of landscape architecture.

§ 6.5. Examination.

A. All applicants for original certification in Virginia are required to pass a Uniform National Examination (UNE) after meeting the education and experience requirements as provided in these regulations.

B. The Virginia board is a member of the Council of Landscape Architectural Registration Boards (CLARB) and as such is authorized to administer the CLARB examinations.

C. The Uniform National Examination (UNE) will be offered at least once per year at a time designated by the board.

D. Grading of the examination shall be in accordance with the national grading procedures established by CLARB. The board shall adopt the scoring procedures recommended by CLARB.

E. Unless otherwise stated, applicants approved to sit for an examination shall register and submit the required examination fee to be received in the board office at a time designated by the board. Applicants not properly registered shall not be allowed into the examination site.

F. Examinees will be given specific instructions as to the conduct of each section of the exam at the exam site. Examinees are required to follow these instructions to assure fair and equal treatment to all examinees during the course of the examination. Evidence of misconduct may result in voided examination scores or other appropriate disciplinary action.

G. Examinees will be advised only of passing or failing the examination. Only the board and its staff shall have access to examination papers, scores and answer sheets.

H. Examination reviews.

Upon written request to the board within 30 days of receiving examination results, examinees will be permitted to individually view only their own failed performance problems for informational purposes only. Examination appeals for grade changes are not permitted.

I. Should an applicant not pass an examination within three years after being approved, the applicant must reapply and meet all current entry requirements.

§ 6.6. Certification by comity.

Any applicant who has passed an examination in another jurisdiction of the United States or province of Canada comparable to the examination required by these regulations or who is CLARB certified and who is currently licensed or certified in another jurisdiction of the United States or province of Canada may have the required Virginia examinations waived, provided that he meets all other qualifications.

DEPARTMENT OF COMMERCE
 BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS,
 LAND SURVEYORS AND LANDSCAPE ARCHITECTS

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TABLE 11.
 TABLE OF EQUIVALENTS FOR EDUCATION AND EXPERIENCE
 FOR CERTIFIED LANDSCAPE ARCHITECTS.

DESCRIPTION	EDUCATION CREDITS			EXPERIENCE CREDITS		
	FIRST 2 YEARS	SUCCEEDING YEARS	MAXIMUM CREDIT ALLOWED	FIRST 2 YEARS	SUCCEEDING YEARS	MAXIMUM CREDIT ALLOWED
A-1. Credits toward a degree in landscape architecture from an accredited school of landscape architecture.	100%	100%	4 YEARS			
A-2. Degree in landscape architecture or credits toward that degree from a non-accredited school of landscape architecture.	100%	100%	4 YEARS			
A-3. Degree or credits toward that degree in an allied professional discipline, i.e. architecture, civil engineering, environmental science, approved by the board.	75%	100%	3 YEARS			
A-4. Any other bachelor degree, or credits toward that degree.	50%	75%	2 YEARS			
A-5. Diversified experience in landscape architecture under the direct supervision of a certifying landscape architect.						100% NO LIMIT
A-6. Diversified experience directly related to landscape architecture when under the direct supervision of an architect, civil engineer or "credentialing" planner.						50% 4 YEARS

EXPLANATION OF REQUIREMENTS

B-1 Education Credits. Education credits shall be subject to the following conditions:

B-1.1. Applicants with a degree specified in A-1 through A-4 will be allowed the credit shown in the Maximum Credit Allowed column, regardless of the length of the degree program.

2. With a passing grade, 32 semester credit hours or 48 quarter credit hours is considered to be one year. Fractions greater than one-half year will be counted one-half year and smaller fractions will not be counted.

B-2 Experience Credits. Experience credits shall be subject to the following conditions:

B-2.1. Every applicant must earn at least two years of experience credit under category A-5.

**PART VII.
QUALIFICATIONS FOR CERTIFICATION OF
INTERIOR DESIGNERS.**

§ 7.1. Definitions.

The following definitions shall apply in the regulations relating to the certification of interior designers:

"Diversified experience" includes the identification, research and creative solution of problems pertaining to the function and quality of the interior environment.

"Monitored experience" means diversified experience in interior design under the supervision of a person eligible for certification as an interior designer, a certified or licensed interior designer, an architect or a professional engineer.

§ 7.2. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$150
Renewal	\$150

§ 7.3. Character.

Applicants must be of good moral character.

§ 7.4. Experience standard.

Experience in interior design shall be diversified in accordance with these regulations. Monitored experience gained under the supervision of a professional engineer shall be discounted at 50% with a maximum credit of six months. Periods of self-employment shall be verified with a list of projects, dates, scope of work and letters of verification by at least three clients.

§ 7.5. References.

Applicants shall submit three references from persons who know of the applicant's work and have known the applicant for at least one year. Persons supplying references may be persons eligible to be certified interior designers, certified or licensed interior designers, architects or professional engineers.

**PART VIII.
QUALIFICATIONS FOR REGISTRATION AS A
PROFESSIONAL CORPORATION.**

§ 7.1. § 8.1. Definitions.

"Employee" of a corporation, for purposes of stock ownership, is a person regularly employed by the corporation who devotes 60% or more of his gainfully employed time to that of the corporation.

§ 7.2. § 8.2. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$ 90
Designation for branch office	25
Renewal	100
Renewal of branch office	25
Reinstatement of branch office	25

§ 7.3. § 8.3. Application requirements.

A. All applicants shall have been incorporated in the Commonwealth of Virginia, or, if a foreign professional corporation, shall have obtained a certificate of authority to do business in Virginia from the State Corporation Commission, in accordance with § 13.1-544.2 of the Code of Virginia.

B. Each application shall include certified true copies of the articles of incorporation, bylaws and charter, and, if a foreign professional corporation, the certificate of authority issued by the State Corporation Commission.

C. Articles of incorporation and bylaws.

The following statements are required:

1. The articles of incorporation or bylaws shall specifically state that cumulative voting is prohibited.
2. The bylaws shall state that at least 2/3 of the capital stock must be held by persons duly licensed or certified to render the services of an architect, professional engineer, land surveyor or landscape architect. The remainder of the stock may be issued only to and held by individuals who are employees of the corporation.
3. The bylaws shall state that nonlicensed or noncertified individuals will not have a voice or standing in any matter affecting the practice of the corporation requiring professional expertise or considered professional practice, or both.

D. Board of directors.

A corporation may elect to its board of directors not more than 1/3 of its members who are employees of the corporation and are not authorized to render professional services.

At least 2/3 of the board of directors shall be licensed or certified to render the services of architecture, professional engineering, land surveying or landscape architecture, or any combination thereof.

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At least one director currently licensed or certified in each profession offered or practiced shall devote substantially full time to the business of the corporation to provide effective supervision and control of the final professional product.

E. Joint ownership of stock.

Any type of joint ownership of the stock of the corporation is prohibited. Ownership of stock by nonlicensed or noncertified employees shall not entitle those employees to vote in any matter affecting the practice of the professions herein regulated.

F. Branch offices.

If professional services are offered or rendered in a branch office(s), a separate branch office designation form shall be completed for each branch office located in Virginia. Persons in responsible charge shall be designated in accordance with these regulations.

§ 7.4. § 8.4. Certificates of authority.

Certificates of authority shall be issued in two categories, general or limited. A general certificate of authority will entitle the corporation to practice the professions of architecture, professional engineering, land surveying and landscape architecture. A limited certificate of authority will permit a corporation to practice only the professions shown on its certificate of authority, architecture, engineering, land surveying, landscape architecture or in any combination thereof.

§ 7.5. § 8.5. Foreign corporations.

In addition to these regulations, the bylaws shall state that the corporation's activities shall be limited to rendering the services of architecture, professional engineering, land surveying and landscape architecture, or any combination thereof.

The corporation shall provide the name and address of each stockholder of the corporation who will be providing the professional service(s) in Virginia and whether such stockholder is licensed or certified to perform the professional service(s) in Virginia.

§ 7.6. § 8.6. Amendments and changes.

A. Amendments to charter, articles of incorporation or bylaws.

A corporation holding a certificate of authority to practice in one or in any combination of the professions covered in these regulations shall file with the board, within 30 days of its adoption, a certified true copy of any amendment to the articles of incorporation, bylaws or charter.

B. Change in directors or shareholders.

In the event there is a change in corporate directors or shareholders, whether the change is temporary or permanent and whether it may be caused by death, resignation or otherwise, the certificate of authority shall be automatically modified to be limited to that professional practice permitted by those pertinent licenses or certificates held by the remaining directors and shareholders of the corporation. Unless otherwise provided, in the event that such change results in noncompliance with these regulations and applicable statutes, the certificate of authority shall be automatically suspended until such time as the corporation comes into compliance with these regulations. The corporation shall notify the board within 30 days of any such change.

C. Change of name, address and place of business.

Any change of name (including assumed names) address, place of business in Virginia, or person(s) in responsible charge of the profession(s) practiced or offered at each place of business shall be reported to the board within 30 days of such an occurrence.

PART VIII IX . QUALIFICATIONS FOR REGISTRATION AS A BUSINESS ENTITY.

§ 8-1. § 9.1. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$ 75
Designation for branch office	25
Renewal	55
Renewal of branch office	25
Reinstatement of branch office	25

§ 8-2. § 9.2. Application requirements.

A. In accordance with § 54.1-411 of the Code of Virginia, applicants shall register with the board on a form approved by the board.

B. If a partnership, a copy of the partnership agreement shall be included with the application. Not less than 2/3 of the general partners shall be licensed professionals.

C. If a corporation, the application shall include certified true copies of the articles of incorporation, bylaws and charter, and if a foreign corporation, a certificate of authority issued by the State Corporation Commission.

D. Branch offices.

If professional services are offered or rendered in a branch office(s), a separate branch office designation form shall be completed for each branch office located in

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Virginia. Persons in responsible charge shall be designated in accordance with these regulations.

§ 8-2. § 9.3. Registration certification.

The application shall contain an affidavit by an authorized official in the corporation, partnership, sole proprietorship, or other entity unit that the practice of architecture, professional engineering, land surveying or certified landscape architecture to be done by that entity shall be under the direct control and personal supervision of the licensed or certified full-time employees identified in the application as responsible for the practice. In addition, the licensed or certified employees responsible for the practice shall sign their names indicating that they are full-time employees and in responsible charge, and that they understand and shall comply with all statutes and regulations of the board.

§ 8-4. § 9.4. Change of status.

Any changes of status, including but not limited to change in entity, name (including assumed names), address, place of business or persons in responsible charge of the professions practiced or offered at each place of business, shall be reported to the board within 30 days of such an occurrence.

In the event there is a change in the licensed or certified employees in responsible charge, whether the change is temporary or permanent and whether it may be caused by death, resignation or otherwise, the registration shall be automatically modified to be limited to that professional practice permitted by the remaining licensed or certified employees, or shall be automatically suspended until such time as the entity comes into compliance with these regulations.

PART IX X. RENEWAL AND REINSTATEMENT.

§ 9-1. § 10.1. Expiration and renewal.

A. Prior to the expiration date shown on the license, certificate or registration, licenses, certificates or registrations shall be renewed for a two-year period upon completion of a renewal application and payment of a fee established by the board. An applicant must certify that he continues to comply with the Standards of Practice and Conduct as established by the board. Registrations for professional corporations and business entities shall expire on December 31 of each odd-numbered year. *Branch offices may not renew until the main office registration is properly renewed.*

B. Failure to receive a renewal notice and application shall not relieve the regulant of the responsibility to renew. If the regulant fails to receive the renewal notice, a copy of the license, certificate or registration may be submitted with the required fee as an application for renewal, accompanied by a signed statement indicating

that the applicant continues to comply with the Standards of Practice and Conduct of the board under whose authority the license, certificate or registration is issued.

C. Board discretion to deny renewal.

The board may deny renewal of a license, certificate or registration for the same reasons as it may refuse initial licensure, certification or registration or discipline a regulant.

§ 9-2. § 10.2. Reinstatement.

A. If the renewal fee is not received by the board within 30 days following the date noted on the license, certificate or registration, a reinstatement fee equal to the renewal fee plus \$ 100 shall be required, *unless a reinstatement fee is otherwise noted.*

B. If the license, certificate or registration has expired for six months or more, but less than five years, the regulant shall be required to submit a new application, which shall be evaluated by the board to determine if the applicant meets the renewal requirements. In addition, a fee equal to the regular renewal fee plus \$ 100, times the number of renewal cycles the license, certificate or registration has expired shall be required, *unless a reinstatement fee is otherwise noted.*

C. If the license, certificate or registration has expired for five years or more, the regulant will be required to submit a new application, meet current entry requirements, and submit a fee equal to the regular renewal fee plus \$ 100, times the number of renewal cycles the license, certificate or registration has expired. *In no event shall an applicant be required to pay fees for more than four renewal cycles.* In addition, the board may require the applicant to submit to an examination.

D. Board discretion to deny reinstatement.

The board may deny reinstatement of a license, certificate or registration for the same reasons as it may refuse initial licensure, certification or registration or discipline a regulant.

E. The date the renewal application and fee are received in the office of the board shall determine whether a license, certificate or registration shall be renewed without reinstatement or shall be subject to reinstatement application procedures.

PART X XI. STANDARDS OF PRACTICE AND CONDUCT.

§ 10-1. § 11.1. Responsibility to the public.

The primary obligation of the professional is to the public. If the professional judgment of the regulant is overruled under circumstances when the safety, health, property and welfare of the public are endangered, the

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professional shall inform the employer or client of the possible consequences and notify appropriate authorities.

~~§ 10.2.~~ § 11.2. Public statements.

The professional shall be truthful in all professional matters.

A. When serving as an expert or technical witness, the professional shall express an opinion only when it is based on an adequate knowledge of the facts in the issue and on a background of technical competence in the subject matter. Except when appearing as an expert witness in court or an administrative proceeding when the parties are represented by counsel, the professional shall issue no statements, reports, criticisms, or arguments on matters relating to professional practice which are inspired or paid for by an interested party or parties, unless the regulant has prefaced the comment by disclosing the identities of the party or parties on whose behalf the professional is speaking, and by revealing any self-interest.

B. A professional shall not knowingly make a materially false statement or fail deliberately to disclose a material fact requested in connection with his application for licensure, certification, registration, renewal or reinstatement.

C. A professional shall not knowingly make a materially false statement or fail to deliberately disclose a material fact requested in connection with an application submitted to the board by any individual or business entity for licensure, certification, registration, renewal or reinstatement.

~~§ 10.3.~~ § 11.3. Conflicts of interest.

The professional shall promptly and fully inform an employer or client of any business association, interest, or circumstances which may influence the professional's judgment or the quality of service.

A. The professional shall not accept compensation, financial or otherwise, from more than one party for services on or pertaining to the same project, unless the circumstances are fully disclosed *in writing* to all parties of current interest.

B. The professional shall neither solicit nor accept financial or other valuable consideration from suppliers for specifying their products or services.

C. The professional shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with a client or employer in connection with work for which the professional is responsible.

~~§ 10.4.~~ § 11.4. Solicitation of work.

In the course of soliciting work:

1. The professional shall not bribe.

2. The professional shall not falsify or permit misrepresentation of the professional's work or an associate's academic or professional qualifications, nor shall the professional misrepresent the degree of responsibility for prior assignments. Materials used in the solicitation of employment shall not misrepresent facts concerning employers, employees, associates, joint ventures or past accomplishments of any kind.

~~§ 10.5.~~ § 11.5. Competency for assignments.

A. The professional shall undertake to perform professional assignments only when qualified by education or experience and licensed or certified in the profession involved. The professional may accept an assignment requiring education or experience outside of the field of the professional's competence, but only to the extent that services are restricted to those phases of the project in which the professional is qualified. All other phases of such project shall be the responsibility of licensed or certified associates, consultants or employees.

B. A professional shall not misrepresent to a prospective or existing client or employer his qualifications and the scope of his responsibility in connection with work for which he is claiming credit.

C. The professional shall adhere to all minimum standards and requirements pertaining to the practice of his own profession as well as other professions if incidental work is performed.

~~§ 10.6.~~ § 11.6. Professional responsibility.

A. The professional shall not knowingly associate in a business venture with, or permit the use of the professional's name or firm name by any person or firm where there is reason to believe that person or firm is engaging in activity of a fraudulent or dishonest nature or is violating statutes or any of these regulations.

B. A professional who has direct knowledge that another individual or firm may be violating any of these provisions, or the provisions of Chapters 1 through 3 of Title 54.1, or Chapter 7 of Title 13.1 of the Code of Virginia, shall immediately inform the secretary of the board in writing and shall cooperate in furnishing any further information or assistance that may be required.

C. The professional shall, upon request or demand, produce to the board, or any of its agents, any plan, document, book, record or copy thereof in his possession concerning a transaction covered by these regulations, and shall cooperate in the investigation of a complaint filed with the board against a licensee.

D. A professional shall not knowingly use the design, plans or work of another professional without the original professional's knowledge and consent and after consent, a

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thorough review to the extent that full responsibility may be assumed.

§ 10.7. § 11.7. Good standing in other jurisdictions.

A professional licensed or certified to practice architecture, professional engineering, land surveying or landscape architecture or interior design in other jurisdictions shall be in good standing in every jurisdiction where licensed or certified, and shall not have had a license or certificate suspended, revoked or surrendered in connection with a disciplinary action or who has been the subject of discipline in another jurisdiction prior to applying for licensure or certification in Virginia.

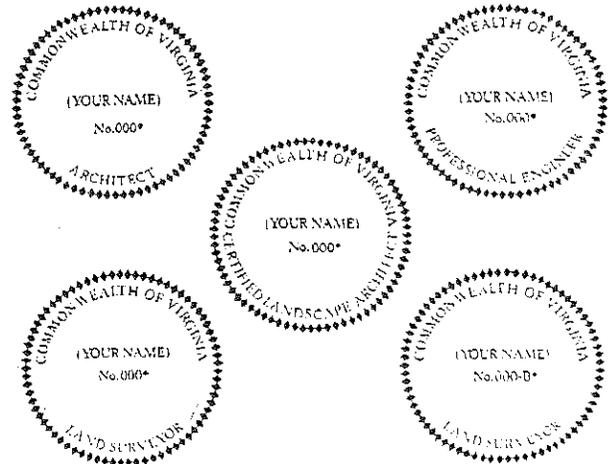
§ 10.8. § 11.8. Use of seal.

A. The application of a professional seal shall indicate that the professional has exercised complete direction and control over the work to which it is affixed. Therefore, no regulant shall affix a name, seal or certification to a plat, design, specification or other work constituting the practice of the professions regulated which has been prepared by an unlicensed or uncertified person or firm unless such work was performed under the direction and supervision of the regulant while under the regulant's contract or while employed by the same firm as the regulant. If a regulant is unable to seal completed professional work, such work may be sealed by another regulant only after thorough review and verification of the work has been accomplished to the same extent that would have been exercised if the work had been done under the complete direction and control of the regulant affixing the professional seal.

B. A principal or authorized licensed or certified employee shall apply a stamp or preprinted seal to final and complete cover sheets of plans, drawings, plats, technical reports and specifications and to each original sheet of plans, drawings or plats, prepared by the regulant or someone under his direct control and personal supervision.

1. All seal imprints on final documents shall bear an original signature and date.
2. Incomplete plans, documents and sketches, whether advance or preliminary copies, shall be so identified and need not be sealed or signed.
3. All plans, drawings or plats prepared by the regulant shall bear the regulant's name or firm name, address and project name.
4. The seal of each regulant responsible for each profession shall be used.
5. Application of the seal and signature indicates acceptance of responsibility for work shown thereon.
6. The seal shall conform in detail and size to the

design illustrated below. (Size has been reduced for publication.)



* The number referred to is the six digit number as shown on the license, certificate or registration. The number is permanent.

§ 10.9. § 11.9. Organization and styling of practice.

Nothing shall be contained in the name, letterhead or other styling of a professional practice implying a relationship, ability or condition which does not exist.

An assumed, fictitious or corporate name shall not be misleading as to the identity, responsibility or status of those practicing thereunder.

§ 10.10. § 11.10. Licensee required at each place of business.

A. Corporations, partnerships, firms or other legal entities maintaining a place of business in the Commonwealth of Virginia for the purpose of offering to provide architectural, engineering, land surveying or certified landscape architectural services practiced at another location shall have an authorized full-time licensed or certified professional architect, professional engineer, land surveyor or landscape architect in that place of business.

B. Corporations, partnerships, firms or other legal entities maintaining any place of business in the Commonwealth of Virginia for the purpose of practicing architecture, engineering, land surveying or certified landscape architecture at that location, shall have in responsible charge at each place of business a full-time resident licensed or certified professional architect, professional engineer, land surveyor or landscape architect

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exercising supervision and control of work in each profession being practiced.

~~§ 10.11.~~ § 11.11. Sanctions.

A. No license, certification, registration or regulant shall be fined, suspended or revoked unless a majority of the members of the entire board and a majority of the board members of the profession involved vote for the action. The board may fine, suspend or revoke any license, certification, certificate of authority or registration, if the board finds that:

1. The license, certification or registration was obtained or renewed through fraud or misrepresentation; or
2. The regulant has been found guilty by the board, or by a court of competent jurisdiction, of any material misrepresentation in the course of professional practice, or has been convicted, pleaded guilty or found guilty regardless of adjudication or deferred adjudication of any felony or misdemeanor which, in the judgment of the board, adversely affects the regulant's ability to perform satisfactorily within the regulated discipline; or
3. The regulant is guilty of professional incompetence or negligence; or
4. The regulant has abused drugs or alcohol to the extent that professional competence is adversely affected; or
5. The regulant violates any standard of practice and conduct, as defined in these regulations; or
6. The regulant violates or induces others to violate any provision of Chapters 1 through 3 of Title 54.1, or Chapter 7 of Title 13.1 of the Code of Virginia, or any other statute applicable to the practice of the professions herein regulated or any provision of these rules and regulations.

B. If evidence is furnished to the board which creates doubt as to the competency of a regulant to perform professional assignments in a technical field, the board may require the regulant to prove competence by interview, presentation or examination. Failure to appear before the board, pass an examination, or otherwise demonstrate competency to the board shall be basis for revocation or suspension of the license, certification or registration.

NOTICE: The forms referenced in the subject regulations are not being published due to volume. The forms are available for public inspection at the Department of Commerce, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS FOR: Virginia State Board of Architects, Professional Engineers, Land Surveyors and Landscape Architects

Application for Architect Registration.
Application for Licensing as a Professional Engineer.
Application for Licensing as a Land Surveyor.
Application for Licensing as a Land Surveyor B.
Application for Certification as a Landscape Architect.
Application for a Certificate of Authority to Practice Architecture, Professional Engineering, Land Surveying and Landscape Architecture as a Professional Corporation.
Application for Registration to Provide Professional Services as a Business Entity.

Application for Certification as an Interior Designer.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-01-37. Aid to Dependent Children - Elimination of Monthly Reporting.

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

Public Hearing Date: N/A - Written comments may be submitted until November 8, 1991.

(See Calendar of Events section for additional information)

Summary:

Applicants and recipients are not required to report income and circumstances monthly. Changes in income and circumstances are to be reported to the agency the day the change occurs or the following working day.

VR 615-01-37. Aid to Dependent Children - Elimination of Monthly Reporting.

§ 1. Definitions.

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

"ADC" means Aid to Dependent Children.

"Monthly reporting" is the process where an ADC recipient files a report of income and circumstances every month in order to be considered for continuing eligibility for ADC.

"Reporting changes requirement" means the applicant/recipient must report all changes the day the change occurs or the next working day.

§ 2. Elimination of monthly reporting. ~~Recipients, including~~

those not eligible for a money payment due to the minimum payment requirement, are required to report monthly if: (a) earnings are being received by a member of the assistance unit (including student earnings) or a person living with the assistance unit whose earnings are deemed available (earnings are considered deemed when being received, regardless of whether they are sufficient to be counted in the grant computation); (b) any assistance unit member who has a recent work history, as well as those individuals whose earnings are deemed available to the unit; (c) unearned income is being counted in a computer calculated grant computation; (d) there is a stepparent in the home; (e) a child's deprivation is based on death or incapacity; (f) a child is 16, or older; (g) unearned income was counted in a computer calculated grant computation during the past three months; (h) earned income was counted in a computer calculated grant computation during the past six months; or (i) included in an ADC UP case. *The reporting changes requirement is that the applicant or recipient must report all changes in income and circumstances the day the change occurs or the following working day.*

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF AIR POLLUTION CONTROL (STATE BOARD OF)

permit review under § 120-08-04 .

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution.

B. The board may establish the priorities for implementation of this rule by either affected facility type or pollutant type. The priorities may be established in consideration of the following factors: potential public health impact, nature and amount of pollutants emitted on a statewide basis, degree of regulation by other governmental entities, and available resources. The board, at the request of an owner or owners, may defer implementation of this rule for a facility or any group of facilities where technical issues necessitate further analysis and study in order to implement the rule or the affected facility or facilities. The board may prescribe the procedures for the prioritization of implementation of this rule and for the deferral of implementation of this rule by policy]

Statutory Authority: § 10.1-1308 of the Code of Virginia.

[B. C.] The provisions of this rule apply throughout the Commonwealth of Virginia.

Effective Date: October 15, 1991.

Summary:

C. Exempted from the provisions of this rule is any stationary source or operation not part of a stationary source which has an uncontrolled emission rate less than the emission rate specified in Table 4-3 for the an individual basis to each pollutant for which a TLV @ has been established-

The amendments to the noncriteria pollutant rules establish new significant ambient air concentrations (SAACs) related to the chronic and acute health effect limits established in the American Conference of Governmental Industrial Hygienists (ACGIH) handbook. The exemption table has been replaced by exemption formulas for the various limits listed in the ACGIH handbook. These formulas were developed from assumptions that more readily reflect the operation of facilities emitting toxic pollutants than those used in developing the table now used. Other amendments are a clarification of the standards section of the rules, an expansion of the definition of the type of control technology that might be required for existing facilities, additional compliance requirements for existing facilities that are emitting at levels which produce ambient air concentrations significantly above the SAAC, new public participation requirements, an exemption for pesticide applications, the addition of language to allow the establishment of priorities for implementing the rules, and the addition of language to allow deferral of implementation of the rules when technical issues necessitate further analysis.

VR 120-01. Regulations for the Control and Abatement of Air Pollution.

TABLE 4-3

TLV @ (mg/m ³)	Range	Emission Rates (pounds/hour)
less than 1		0
1-2		0-13
3-5		0-76
6-12		1-52
13-25		3-20
26-50		6-58
51-250		12-00
251-500		63-51
501 or greater		126-77

**PART IV.
EMISSION STANDARDS FOR NON-CRITERIA TOXIC
POLLUTANTS (RULE 4-3).**

§ 120-04-0301. Applicability and designation of affected facility.

A. Regardless of the provisions of § 120-04-01 and, except as provided in subsections C and D of this section, the affected facility to which the provisions of this rule apply is each facility or operation that emits or may emit any non-criteria toxic pollutant [and which is not subject to Rule 5-3. Implementation of this rule shall occur upon notification to the owner by the board through means such as an information request from the board or an operating

[C. D.] Exemption determination.

1. Exempted from the provisions of this rule is any

stationary source or operation not part of a stationary source which has a potential to emit a [toxic] pollutant at a level equal to or less than the exempt emission rate calculated using the following exemption formulas for the applicable TLV[®]. If more than one exemption formula applies to a [toxic] pollutant [emitted by a source], the potential to emit that pollutant shall be equal to or less than [each both] applicable exemption [formula formulas] in order for the [pollutant source] to be exempt [for that pollutant]. The exemption formulas apply on an individual basis to each [toxic] pollutant for which a TLV[®] has been established.

a. For [toxic] pollutants with a TLV-C[®], the following exemption formula applies, provided the potential to emit does not exceed 22.8 pounds per hour:

$$\text{Exempt Emission Rate (pounds per hour)} = \text{TLV-C}^{\circledast} (\text{mg/h}) \times 0.033$$

b. For [toxic] pollutants with both a TLV-STEL[®] and a TLV-TWA[®], the following exemption formulas apply, provided the potential to emit does not exceed 22.8 pounds per hour or 100 tons per year:

$$\begin{aligned} \text{Exempt Emission Rate (pounds per hour)} &= \text{TLV}^{\circledast} \text{-STEL (mg/m}^3) \times 0.033 \\ \text{Exempt Emission Rate (tons per year)} &= \text{TLV-TWA}^{\circledast} (\text{mg/m}^3) \times 0.145 \end{aligned}$$

c. For [toxic] pollutants with only a TLV-TWA[®], the following exemption formulas apply, provided the potential to emit does not exceed 22.8 pounds per hour or 100 tons per year:

$$\begin{aligned} \text{Exempt Emission Rate (pounds per hour)} &= \text{TLV-TWA}^{\circledast} (\text{mg/m}^3) \times 0.066 \\ \text{Exempt Emission Rate (tons per year)} &= \text{TLV-TWA}^{\circledast} (\text{mg/m}^3) \times 0.145 \end{aligned}$$

2. Exemption from the provisions of this rule for any stationary source or operation not part of a stationary source which has a potential to emit any toxic pollutant without a TLV[®] shall be determined by the board using available health effects information.

3. The exemption determination shall be made by the board using information submitted by the owner at the request of the board as set out in § 120-04-0305.

[D. E.] The provisions of this rule do not apply to the following: Exemptions for [toxic] pollutants otherwise regulated.

1. Owners of sources emitting [toxic] pollutants regulated under any of the following may apply to the board for an exemption from this rule:

1. a. Hazardous air pollutants regulated under § 112 of the Federal Clean Air Act, except to the extent such pollutants are emitted from facilities which are not subject to emission standards in Rule 6-1.

2. b. Designated pollutants regulated under § 111(d) of the Federal Clean Air Act, except to the extent such pollutants are emitted from facilities which are not subject to other emission standards in this part.

3. Substances the disposal of which are for energy recovery or hazardous waste management in facilities which meet the 99.99% destruction and removal efficiency (DRE) standard required by the Resource Conservation and Recovery Act, provided the board is furnished with an acceptable certification that such facilities are in compliance with the DRE standard.

c. Substances regulated under the Virginia Hazardous Waste Management (HWM) Regulations (VR 672-10-1) [and] which are disposed of in an incinerator as defined by those regulations that (i) meets the 99.99% destruction and removal efficiency standard required by VR 672-10-1 and (ii) has received an HWM permit or qualified for interim status in accordance with VR 672-10-1. The [department board] shall be furnished with an acceptable certification that such incinerator is in compliance with the standards of its HWM permit or interim status and applicable provisions of VR 672-10-1. Facilities which burn hazardous waste for energy recovery are not exempt from this [section rule] .

2. Exemptions for these pollutants [may shall] be granted provided the regulation of the toxic pollutant listed is based on an assessment of health effects and not solely on control technology considerations.

[E. F.] Provisions of this rule do not apply to any consumer product used in the same manner as normal consumer use, provided the use results in a duration and frequency of exposure which is not greater than exposures experienced by consumers. This may include, but not be limited to, personal use items, janitorial cleaning supplies, and facility grounds maintenance products, such as fertilizers, pesticides, and paints for structural components.

[G. With regard to the application of pesticides, the provisions of this rule shall apply only to the air quality impact from emissions from application inside the premises of the following affected facilities:

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1. Industrial and manufacturing operations, including warehouse and storage operations related to the operation of these facilities.

2. Warehouse and storage operations at transportation terminals.]

[F. H.] No provision of this rule shall limit the power of the board to [regulate any facility or stationary source that emits or may emit any toxic pollutant pursuant to this rule apply the provisions of this rule to any affected facility] in order to prevent or remedy a condition that may cause or contribute to the endangerment of human health.

§ 120-04-0302. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this rule, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

C. Terms defined.

"Best available control technology" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each [toxic] pollutant which the board, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. If the board determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"Carcinogen" means any substance that has proven carcinogenic in man, or has induced cancer in animals under appropriate experimental conditions, and identified as such in Appendix A of the American Conference of Governmental Industrial Hygienists (ACGIH) Handbook (see Appendix M).

"Non-criteria pollutant" means any air pollutant for which no ambient air quality standard has been established. Particulate matter and volatile organic

compounds are not non-criteria pollutants as generic classes of substances but individual substances within these classes are non-criteria pollutants with respect to their toxic properties based on the establishment of TLV[®] for the individual substances.

["Pesticide" means the same as the definition given in § 3.1-249.27 of the Virginia Pesticide Control Act.]

"Potential to emit" means an emission rate based on the maximum capacity of a stationary source to emit a [toxic] pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a [toxic] pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or its effect on emissions is state or federally enforceable.

["Significant ambient air concentration" means the concentration of a toxic pollutant in the ambient air that if exceeded may have the potential to injure human health.]

"Threshold limit value (TLV)[®]" means the maximum airborne concentration of a substance to which the ACGIH believes that nearly all workers may be repeatedly exposed day after day without adverse effects and which is published in the American Conference of Governmental Industrial Hygienists (ACGIH) Handbook (see Appendix M). The TLV[®] is divided into three categories: TLV-Time-Weighted Average[®] (TLV-TWA[®]), TLV-Short-Term Exposure Limit[®] (TLV-STEL[®]), and TLV-Ceiling[®] (TLV-C[®]).

"TLV-TWA[®]" means the time-weighted average concentration for a normal 8-hour workday and a 40-hour workweek, to which nearly all workers may be repeatedly exposed, day after day, without adverse effect (as defined in the ACGIH Handbook).

"TLV-STEL[®]" means the concentration to which workers may be exposed continuously for a short period of time without suffering from irritation, chronic or irreversible tissue damage, or narcosis of sufficient degree to increase the likelihood of accidental injury, impair self-rescue or materially reduce work efficiency. The TLV-STEL[®] supplements the TLV-TWA[®] where there are recognized acute effects from a substance whose toxic effects are primarily of a chronic nature.

"TLV-C[®]" means the concentration that should not be exceeded during any part of the working exposure.

"Toxic pollutant" means any air pollutant for which no ambient air quality standard has been established. Particulate matter and volatile organic compounds are not toxic pollutants as generic classes of substances but individual substances within these classes may be toxic pollutants [with respect to because of] their toxic

properties or because a TLV[®] has been established.

§ 120-04-0303. Standard for non-criteria toxic pollutants.

If a stationary source or operation not part of a stationary source is not exempt under § 120-04-0301 C or D, then the following standards shall be met:

A. 1. Regardless of any other provision of these regulations, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions of non-criteria toxic pollutants in such quantities as to cause, or contribute to, any significant ambient air concentration that may cause, or contribute to, the endangerment of human health.

B. 2. The owner of an affected facility shall employ control [technology strategies] as may be directed by the board for the control of non-criteria toxic pollutants. The board may consider the potency and toxicity of each regulated [toxic] pollutant as well as the technical and economic feasibility of any available control strategies. Possible control strategies may include but are not limited to emission control equipment, process changes, substitution of less toxic or nontoxic materials, or operation and maintenance procedures which lower or eliminate emissions of toxic pollutants.

§ 120-04-0304. Significant ambient air concentration guidelines.

For the purpose of case-by-case consideration between the board and the owner, significant ambient air concentrations are any of the following:

A. For carcinogens, any twenty-four hour concentration of a non-criteria pollutant in excess of 1/100 of the threshold limit value-time weighted average (TLV-TWA)[®] for that pollutant.

B. For non-carcinogens, any twenty-four-hour concentration of a non-criteria pollutant in excess of 1/60 of the threshold limit value-time weighted average (TLV-TWA)[®] for that pollutant except for those substances generally recognized and accepted by the board as being not harmful in the ambient air.

1. For pollutants with a TLV-C[®], any one-hour concentration of a toxic pollutant in excess of 1/40 of the TLV-C[®].

2. For pollutants with both a TLV-STEL[®] and a TLV-TWA[®], any one-hour concentration of a toxic pollutant in excess of 1/40 of the TLV-STEL[®] and any annual concentration of a toxic pollutant in excess of 1/500 of the TLV-TWA[®].

3. For pollutants with only a TLV-TWA[®], any annual concentration of a toxic pollutant in excess of

1/500 of the TLV-TWA[®] and any one-hour concentration of a toxic pollutant in excess of 1/20 of the TLV-TWA[®].

C. 4. Any concentration resultant resulting from the emissions of a non-criteria toxic pollutant from an affected facility which the owner knows, or reasonably should be expected to know, may cause, or contribute to, the endangerment of human health.

D. 5. Any concentration, other than those specified in subsection A, B, C, or D subdivision 1, 2, 3 [,] or 4 of this section, including those [resulting from toxic pollutants] not having a TLV[®], which the board determines to cause, to have the potential to cause, or to contribute to, the endangerment of human health. This determination shall be made by considering information by recognized authorities on the specific health effects of such [toxic] pollutants.

§ 120-04-0305. Submittal of information.

The owner of an affected facility shall upon the request of the board submit such information as may be needed to determine the applicability of, or compliance with, this rule. The board may determine the schedule, manner and form for the submittal of the information. Such information shall be submitted within 60 days of the request. Reasonable extensions may be granted when deemed appropriate by the board for extensive information gathering, such as emissions testing or review of large and complex facilities, and only if the request is accompanied by a written schedule.

§ 120-04-0306. Determination of ambient air concentrations.

A. The owner shall, upon the request of the board, provide an assessment as to whether his facility emits, or may emit, any non-criteria toxic pollutant in such quantities as to cause, or contribute to, any concentration exceeding, or which may exceed, any significant ambient air concentration.

B. Ambient air concentrations shall be determined using procedures such as mass balance analysis, extrapolation of personal exposure data, and air quality analysis techniques (modeling) based on emission rates equal to the potential to emit of the stationary source for the applicable averaging time or any other method acceptable to the board.

C. Ambient air concentrations shall be determined using the maximum hourly emission rate of the stationary source.

§ 120-04-0307. Compliance.

A. If the board has reason to believe that the emissions from an affected facility are, or may be, discharged in such quantities so as to cause, or contribute to, any ambient air concentration that is in excess of any

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significant ambient air concentration specified in § 120-04-0304, the owner shall ~~do one or more of~~ comply with the following:

1. For emissions resulting in concentrations which exceed the significant ambient air concentration by a factor of 10 or more times or which the board determines exceed the significant ambient air concentration [~~established under § 120-04-0304 at such concentration so~~] as to have the potential to cause or contribute to substantial and imminent endangerment of human health, the owner shall within an approved timetable implement controls which reduce these emissions to a level specified by the board. For any emissions which remain in excess of the guidelines established under § 120-04-0304, the owner shall choose one or more of the options available under § 120-04-0307 A 2 and shall comply with the schedules contained in § 120-04-0307 B.

2. For emissions other than those specified in § 120-04-0307 A 1, the owner shall choose one or more of the following options and comply with the schedules contained in § 120-04-0307 B.

1. a. Demonstrate that the emissions from the facility do not, and will not, cause, or contribute to, any of the significant ambient air concentration in § 120-04-0304 being exceeded.

2. b. Demonstrate that the applicable significant ambient air concentration in § 120-04-0304 is inappropriate for the [*toxic*] air pollutant in question by showing that the emissions from the affected facility produce no endangerment of human health.

3. c. Submit a plan (including an expeditious timetable for completion) acceptable to the board demonstrating how the owner will Control the emissions from the affected facility to a level resulting in ambient air concentrations that are below the significant ambient air concentrations or resulting in such other ambient air concentrations acceptable to the board.

B. The owner shall notify the board of [~~the choice of one or more of the alternatives set forth in § 120-04-0307 A 2 his choice under subdivision A 2 of this section~~] within 45 days of notification by the department that his facility exceeds the significant ambient air concentration specified in § 120-04-0304. [~~Once the option has been chosen, the owner shall submit a plan and schedule to the department for approval within 45 days. Within 45 days of notifying the board of the option under subdivision A 2 of this section, the owner shall submit a plan and schedule to the board for approval.~~] If the owner fails to submit either his choice of an option or a plan and schedule to implement that option, the [~~department board~~] may require the owner to install best available control technology to control the facility's emissions in a manner

and by a schedule set out by the board. All options shall be completed within a reasonable time: 30 days for § 120-04-0307 A 2 a, 60 days for § 120-04-0307 A 2 b, and 18 months for § 120-04-0307 A 2 c. None of the times specified in this subsection include time needed for [~~department or~~] board approval. Reasonable extensions may be granted when deemed appropriate by the [~~department board~~] .

B. C. Failure of the owner to accomplish any of the alternatives set forth in subsection A of this section in a manner acceptable to the board shall constitute a violation of § 120-04-0303.

§ 120-04-0308. Public participation.

If the owner of an affected facility chooses the demonstration under § 120-04-0307 A 2 b, the provisions of this section shall apply.

A. Prior to the decision of the board on the acceptability of the demonstration, the demonstration shall be subject to a public comment period of at least 30 days.

B. The board shall notify the public of the opportunity for public comment on the information available for public inspection under the provisions of subsection C of this section. The notification shall be made by advertisement in one newspaper of general circulation in the affected air quality control region and, if available, one newspaper that circulates in the area where the affected facility is located. A copy of the notice shall be sent to the governing body of the locality where the affected facility is located and to the governing bodies of the localities where ambient air quality impacts from the affected facility exceed the significant ambient air concentration guidelines in § 120-04-0304. The notice shall include a brief description of the demonstration, a statement listing the requirements in § 120-04-0308 D and E, and the name and telephone number of a person from whom detailed information on the demonstration may be obtained.

C. Information relevant to the demonstration, including (i) information produced by the owner showing that the emissions from the affected facility do not endanger human health and (ii) the preliminary review, analysis and tentative determination of the [~~department board~~] , shall be available for public inspection during the entire comment period in at least one location in the affected air quality control region.

D. Following the initial publication of notice of a public comment period, the board will receive written requests for a public hearing to consider the source's demonstration under § 120-04-0307 A 2 b. The request shall be submitted within 30 days of the appearance of the notice in the newspaper. Request for a public hearing shall contain the following information:

1. The name, mailing address and telephone number of the requester.

2. The names and addresses of all persons for whom the requester is acting as a representative.

3. The reason why a hearing is requested.

4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative, including an explanation of how and to what extent such interest would be directly and adversely affected by the demonstration in question.

E. The board shall review all timely requests for public hearing filed during the 30 days following the appearance of the public comment notice in the newspaper. Within 30 calendar days following the expiration of the public comment period the board shall grant a public hearing if it finds [that one or both of] the following [apply] :

1. There is significant public interest in the demonstration in question.

2. There are substantial, disputed issues relevant to the demonstration in question.

F. The board shall notify by mail the owner making the demonstration and each requester, at his last known address, of the decision to convene or deny a public hearing. The notice shall contain a description of the procedures for the public hearing and for the final determination under this section.

G. If the board decides to hold a public hearing, the hearing shall be scheduled at a time between 30 and 60 days after mailing the notification required by § 120-04-0308 F. The public hearing shall be held in the affected air quality control region.

H. The procedures for notification to the public and availability of information used for the public comment period and provided in subsections B and C of this section shall also be followed for the public hearing.

[NOTE: In adopting amendments to this rule to be effective October 1, 1991, the board replaced the term "noncriteria" with the term "toxic." In the interest of economy and efficiency, the board did not make the corresponding change at each place the term "noncriteria" occurs throughout the Regulations for the Control and Abatement of Air Pollution (VR 120-01). However, it is the intent of the board to make that change in other parts of the regulations as the opportunity presents itself. Until such changes are made the term "noncriteria" shall be construed to mean "toxic" throughout VR 120-01.]

PART V.
STANDARDS OF PERFORMANCE FOR
NON-CRITERIA TOXIC POLLUTANTS (RULE 5-3).

§ 120-05-0301. Applicability and designation of affected facility.

A. Regardless of the provisions of § 120-05-01 and, except as provided in subsections C and D of this section, the affected facility to which the provisions of this rule apply is each [new, modified, reconstructed or relocated] facility or operation [, which has a permit containing emission limits and other requirements pursuant to this rule or which is subject to the new and modified source provisions of Part VIII,] that emits or may emit any ~~non-criteria~~ toxic pollutant.

[B. The board may establish the priorities for implementation of this rule by either affected facility type or pollutant type. The priorities may be established in consideration of the following factors: potential public health impact, nature and amount of pollutants emitted on a statewide basis, degree of regulation by other governmental entities, and available resources. The board, at the request of an owner or owners, may defer implementation of this rule for a facility or any group of facilities where technical issues necessitate further analysis and study in order to implement the rule for the affected facility or facilities. The board may prescribe the procedures for the prioritization of implementation of this rule and for the deferral of implementation of this rule by policy.]

[B. C.] The provisions of this rule apply throughout the Commonwealth of Virginia.

C. Exempted from the provisions of this rule is any stationary source or operation not part of a stationary source which has an uncontrolled emission rate less than the emission rate specified in Table 5-3 for the applicable TLV. The exemption levels in Table 5-3 apply on an individual basis to each pollutant for which a TLV has been established.

TABLE 5-3

TLV @ Range (mg/m ³)	Emission Rates (pounds/hour)
less than 1	0
1-2	0-13
3-5	0-76
6-12	1-52
13-25	3-29
26-50	6-58
51-250	12-90
251-500	63-51

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501 or greater 126-77

[C. D.] Exemption determination.

1. Exempted from the provisions of this rule is any stationary source or operation not part of a stationary source which has a potential to emit a [toxic] pollutant at a level equal to or less than the exempt emission rate calculated using the following exemption formulas for the applicable TLV[®]. If more than one exemption formula applies to a [toxic] pollutant [emitted by a source], the potential to emit that pollutant shall be equal to or less than [~~each~~ both] applicable exemption [~~formula~~ formulas] in order for the [~~pollutant~~ source] to be exempt [for that pollutant]. The exemption formulas apply on an individual basis to each [toxic] pollutant for which a TLV[®] has been established.

a. For [toxic] pollutants with a TLV-C[®], the following exemption formula applies, provided the potential to emit does not exceed 22.8 pounds per hour:

$$\text{Exempt Emission Rate (pounds per hour)} = \text{TLV-C}^{\circledR} (\text{mg/m}^3) \times 0.033$$

b. For [toxic] pollutants with both a TLV-STEL[®] and a TLV-TWA[®], the following exemption formulas apply, provided the potential to emit does not exceed 22.8 pounds per hour or 100 tons per year:

$$\text{Exempt Emission Rate (pounds per hour)} = \text{TLV-STEL}^{\circledR} (\text{mg/m}^3) \times 0.033$$

$$\text{Exempt Emission Rate (tons per year)} = \text{TLV-TWA}^{\circledR} (\text{mg/m}^3) \times 0.145$$

c. For [toxic] pollutants with only a TLV-TWA[®], the following exemption formulas apply, provided the potential to emit does not exceed 22.8 pounds per hour or 100 tons per year:

$$\text{Exempt Emission Rate (pounds per hour)} = \text{TLV-TWA}^{\circledR} (\text{mg/m}^3) \times 0.066$$

$$\text{Exempt Emission Rate (tons per year)} = \text{TLV-TWA}^{\circledR} (\text{mg/m}^3) \times 0.145$$

2. Exemption from the provisions of this rule for any stationary source or operation not part of a stationary source which has a potential to emit any toxic pollutant without a TLV[®] will be determined by the board using available health effects information.

3. The exemption determination shall be made by the board using information submitted by the owner at the request of the board as set out in § 120-04-0305.

[D. E.] The provisions of this rule do not apply to the following: Exemptions for [toxic] pollutants otherwise regulated.

1. Owners of sources emitting [toxic] pollutants regulated under any of the following may apply to the board for an exemption from this rule:

1. a. Hazardous air pollutants regulated under § 112 of the Federal Clean Air Act, except to the extent such pollutants are emitted from facilities which are not subject to emission standards in Rule 6-1.

2. Non-criteria pollutants regulated under Section 111(b) of the federal Clean Air Act, except to the extent such pollutants are emitted from facilities which are not subject to standards of performance in Rule 5-5.

3. Substances the disposal of which are for energy recovery or hazardous waste management in facilities which meet the 99.99% destruction and removal efficiency (DRE) standard required by the Resource Conservation and Recovery Act, provided the board is furnished with an acceptable certification that such facilities are in compliance with the DRE standard.

b. Substances regulated under the Virginia Hazardous Waste Management (HWM) Regulations (VR 672-10-1) [and] which are disposed of in an incinerator as defined by those regulations that (i) meets the 99.99% destruction and removal efficiency standard required by VR 672-10-1 and (ii) has received an HWM permit or qualified for interim status in accordance with VR 672-10-1. The [department board] shall be furnished with an acceptable certification that such incinerator is in compliance with the standards of its HWM permit or interim status and applicable provisions of VR 672-10-1. Facilities which burn hazardous waste for energy recovery are not exempt from this [section rule].

2. Exemptions for these pollutants [may shall] be granted provided the regulation of the toxic pollutant listed is based on an assessment of health effects and not solely on control technology considerations.

[E. F.] Provisions of this rule do not apply to any consumer product used in the same manner as normal consumer use, provided the use results in a duration and frequency of exposure which is not greater than exposures experienced by consumers. This may include, but not be limited to, personal use items, janitorial cleaning supplies, and facility grounds maintenance products, such as fertilizers, pesticides, and paints for structural components.

[G. With regard to the application of pesticides, the provisions of this rule shall apply only to the air quality impact from emissions from application inside the premises of the following affected facilities:

1. Industrial and manufacturing operations, including warehouse and storage operations related to the operation of these facilities.

2. Warehouse and storage operations at transportation terminals.]

[F. H.] No provision of this rule shall limit the power of the board to [regulate a facility or stationary source that emits or may emit any toxic pollutant pursuant to this rule apply the provisions of this rule to any affected facility] in order to prevent or remedy a condition that may cause or contribute to the endangerment of human health.

§ 120-05-0302. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this rule, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

C. Terms defined.

"Best available control technology" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each [toxic] pollutant which the board, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. If the board determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"Carcinogen" means any substance that has proven carcinogenic in man, or has induced cancer in animals under appropriate experimental conditions, and identified as such as Appendix A in the American Conference of Governmental Industrial Hygienists (ACGIH) Handbook

(see Appendix M).

"Non-criteria pollutant" means any air pollutant for which no ambient air quality standard has been established. Particulate matter and volatile organic compounds are not non-criteria pollutants as generic classes of substances but individual substances within these classes are non-criteria pollutants with respect to their toxic properties based on the establishment of TLVs[®] for the individual substances.

["Pesticide" means the same as the definition given in § 3.1-249.27 of the Virginia Pesticide Control Act.]

"Potential to emit" means an emission rate based on the maximum capacity of a stationary source to emit a [toxic] pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a [toxic] pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or its effect on emissions is state or federally enforceable.

["Significant ambient air concentration" means the concentration of a toxic pollutant in the ambient air that if exceeded may have the potential to injure human health.]

"Threshold limit value (TLV)[®]" means the maximum airborne concentration of a substance to which the ACGIH believes that nearly all workers may be repeatedly exposed day after day without adverse effects and which is published in the American Conference of Governmental Industrial Hygienists (ACGIH) Handbook (see Appendix M). The TLV[®] is divided into three categories: TLV-Time-Weighted Average[®] (TLV-TWA[®]), TLV-Short-Term Exposure Limit[®] (TLV-STEL[®]), and TLV-Ceiling[®] (TLV-C[®]).

"TLV-TWA[®]" means the time-weighted average concentration for a normal 8-hour workday and a 40-hour workweek, to which nearly all workers may be repeatedly exposed, day after day, without adverse effect (as defined in the ACGIH Handbook).

"TLV-STEL[®]" means the concentration to which workers may be exposed continuously for a short period of time without suffering from irritation, chronic or irreversible tissue damage, or narcosis of sufficient degree to increase the likelihood of accidental injury, impair self-rescue or materially reduce work efficiency. The TLV-STEL supplements the TLV-TWA[®] where there are recognized acute effects from a substance whose toxic effects are primarily of a chronic nature.

"TLV-C[®]" means the concentration that should not be exceeded during any part of the working exposure.

"Toxic pollutant" means any air pollutant for which no

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ambient air quality standard has been established. Particulate matter and volatile organic compounds are not toxic pollutants as generic classes of substances but individual substances within these classes may be toxic pollutants [~~with respect to~~ because of] their toxic properties or because a TLV[®] has been established.

§ 120-05-0303. Standard for ~~non-criteria~~ toxic pollutants.

If a stationary source or operation not part of a stationary source is not exempt under § 120-05-0301 C or D, then the following standards shall be met:

A. 1. Regardless of any other provision of these regulations, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions of ~~non-criteria~~ toxic pollutants in such quantities as to cause, or contribute to, any significant ambient air concentration that may cause, or contribute to, the endangerment of human health.

B. 2. The owner of new or modified sources shall employ best available control technology as may be approved by the board for the control of ~~non-criteria~~ toxic pollutants.

§ 120-05-0304. Significant ambient air concentration guidelines.

For the purpose of case-by-case consideration between the board and the owner, significant ambient air concentrations are any of the following:

A. For carcinogens, any twenty-four hour concentration of a ~~non-criteria~~ pollutant in excess of 1/100 of the threshold limit value-time weighted average (TLV-TWA)[®] for that pollutant.

B. For non-carcinogens, any twenty-four hour concentration of a ~~non-criteria~~ pollutant in excess of 1/60 of the threshold limit value-time weighted average (TLV-TWA)[®] for that pollutant except for those substances generally recognized and accepted by the board as being not harmful in the ambient air.

1. For pollutants with a TLV-C[®], any one-hour concentration of a toxic pollutant in excess of 1/40 of the TLV-C[®].

2. For pollutants with both a TLV-STEL[®] and a TLV-TWA[®], any one-hour concentration of a toxic pollutant in excess of 1/40 of the TLV-STEL[®] and any annual concentration of a toxic pollutant in excess of 1/500 of the TLV-TWA[®].

3. For pollutants with only a TLV-TWA[®], any annual concentration of a toxic pollutant in excess of 1/500 of the TLV-TWA[®] and any one-hour concentration of a toxic pollutant in excess of 1/20 of the TLV-TWA[®].

C. D. Any concentration ~~resultant~~ resulting from the emissions of a ~~non-criteria~~ toxic pollutant from an affected facility which the owner knows, or reasonably should be expected to know, may cause, or contribute to, the endangerment of human health.

D. E. Any concentration, other than those specified in subsection A, B, C, or D subdivision 1, 2, 3 [,] or 4 of this section, including those [resulting from toxic pollutants] not having a TLV[®], which the board determines to cause, to have the potential to cause, or to contribute to, the endangerment of human health. This determination will be made by considering information by recognized authorities on the specific health effects of such [toxic] pollutants.

§ 120-05-0305. Submittal of information.

The owner of an affected facility shall upon the request of the board submit such information as may be needed to determine the applicability of, or compliance with, this rule. The board may determine the schedule, manner and form for the submittal of the information.

§ 120-05-0306. Determination of ambient air concentrations.

A. The owner shall, upon the request of the board, provide an assessment as to whether his facility emits, or may emit, any ~~non-criteria~~ toxic pollutant in such quantities as to cause, or contribute to, any concentration exceeding, or which may exceed, any significant ambient air concentration.

B. Ambient air concentrations shall be determined using procedures such as mass balance analysis, extrapolation of personal exposure data, and air quality analysis techniques (modeling) based on emission rates equal to the facility's potential to emit for the applicable averaging time or any other method acceptable to the board.

C. Ambient air concentrations shall be determined using the maximum hourly emission rate of the stationary source.

§ 120-05-0307. Compliance.

A. If the board has reason to believe that the emissions from an affected facility are, or may be, discharged in such quantities so as to cause, or contribute to, any ambient air concentration that is in excess of any significant ambient air concentration specified in § 120-05-0304, a permit shall not be issued until the owner shall do one or more of complies with one or more of the following:

1. Demonstrate that the emissions from the facility do not, and will not, cause, or contribute to, any of the significant ambient air concentrations in § 120-05-0304 being exceeded.

2. Demonstrate that the applicable significant ambient

air concentration in § 120-05-0304 is inappropriate for the [toxic] air pollutant in question by showing that the emissions from the affected facility produce no endangerment of human health.

3. Submit a plan (including an expeditious timetable for completion) acceptable to the board demonstrating how the owner will Control the emissions from the affected facility to a level resulting in ambient air concentrations that are below the significant ambient air concentrations or resulting in such other ambient air concentrations acceptable to the board.

B. Failure of the owner to accomplish any of the alternatives set forth in subsection A of this section in a manner acceptable to the board shall constitute a violation of § 120-05-0303.

§ 120-05-0308. Public participation.

If the owner of an affected facility chooses the demonstration under § 120-05-0307 A 2, the provisions of this section shall apply.

A. Prior to the decision of the board on the acceptability of the demonstration, the demonstration shall be subject to a public comment period of at least 30 days.

B. The board shall notify the public of the opportunity for public comment on the information available for public inspection under the provisions of subsection C of this section. The notification shall be made by advertisement in one newspaper of general circulation in the affected air quality control region and, if available, one newspaper that circulates in the area where the affected facility is located. A copy of the notice shall be sent to the governing body of the locality where the affected facility is located and to the governing bodies of the localities where ambient air quality impacts from the affected facility exceed the significant ambient air concentration guidelines in § 120-05-0304. The notice shall include a brief description of the demonstration, a statement listing the requirements in § 120-05-0308 D and E, and the name and telephone number of a person from whom detailed information on the demonstration may be obtained.

C. Information relevant to the demonstration, including (i) information produced by the owner showing that the emissions from the affected facility do not endanger human health and (ii) the preliminary review, analysis and tentative determination of the [~~department~~ board], shall be available for public inspection during the entire comment period in at least one location in the affected air quality control region.

D. Following the initial publication of notice of a public comment period, the board will receive written requests for a public hearing to consider the source's demonstration under § 120-05-0307 A 2. The request shall

be submitted within 30 days of the appearance of the notice in the newspaper. Request for a public hearing shall contain the following information:

1. The name, mailing address and telephone number of the requester.

2. The names and addresses of all persons for whom the requester is acting as a representative.

3. The reason why a hearing is requested.

4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative, including an explanation of how and to what extent such interest would be directly and adversely affected by the demonstration in question.

E. The board shall review all timely requests for public hearing filed during the 30 days following the appearance of the public comment notice in the newspaper. Within 30 calendar days following the expiration of the public comment period the board shall grant a public hearing if it finds [that one or both of] the following [apply]:

1. There is significant public interest in the demonstration in question.

2. There are substantial, disputed issues relevant to the demonstration in question.

F. The board shall notify by mail the owner making the demonstration and each requester, at his last known address, of the decision to convene or deny a public hearing. The notice shall contain a description of the procedures for the public hearing and for the final determination under this section.

G. If the board determines to hold a public hearing, the hearing shall be scheduled at a time between 30 and 60 days after mailing the notification required by § 120-05-0308 F. The public hearing shall be held in the affected air quality control region.

H. The procedures for notification to the public and availability of information used for the public comment period and provided in subsections B and C of this subsection shall also be followed for the public hearing.

[NOTE: In adopting amendments to this rule to be effective October 1, 1991, the board replaced the term "noncriteria" with the term "toxic." In the interest of economy and efficiency, the board did not make the corresponding change at each place the term "noncriteria" occurs throughout the Regulations for the Control and Abatement of Air Pollution (VR 120-01). However, it is the intent of the board to make that change in other parts of the regulations as the opportunity presents itself. Until such changes are made the term "noncriteria" shall be construed to mean "toxic" throughout VR 120-01.]

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APPENDIX R. [NEW AND MODIFIED STATIONARY] SOURCE PERMIT EXEMPTION LEVELS.

I. Determination of exemption levels.

In determining whether a facility is exempt from the requirements of § 120-08-01, the provisions of Sections II through VIII of this appendix are independent from the provisions of Section IX of this appendix. A facility must be determined to be exempt both under the provisions of Sections II through VIII taken as a group and under the provisions of Section IX to be exempt from § 120-08-01.

II. New source exemption levels by size.

Facilities as specified below shall be exempt from the requirements of § 120-08-01 as they pertain to construction, reconstruction or relocation.

A. Fuel burning equipment.

1. Any unit using solid fuel with a maximum heat input of less than 350,000 Btu per hour.
2. Any unit using liquid fuel with a maximum heat input of less than 10,000,000 Btu per hour.
3. Any unit using liquid and gaseous fuel with a maximum heat input of less than 10,000,000 Btu per hour.
4. Any unit using gaseous fuel with a maximum heat input of less than 50,000,000 Btu per hour.
5. Any unit that powers a mobile source but is removed for maintenance or repair and testing.

B. Solvent metal cleaning operations

1. Conveyorized degreasers. Any degreaser with an uncontrolled emission rate of not more than 7 tons per year, 40 pounds per day and 8 pounds per hour. No exemptions in AQCR 7.
2. Open top vapor degreasers. Any degreaser with an uncontrolled emission rate of not more than 7 tons per year, 40 pounds per day and 8 pounds per hour. No exemptions in AQCR 7.
3. Cold cleaners. Any cleaner with an uncontrolled emission rate of not more than 7 tons per year, 40 pounds per day and 8 pounds per hour. No exemptions in AQCR 7.

C. Volatile organic compound storage and transfer operations.

Any storage or transfer operation involving petroleum liquids and other volatile organic compounds with a vapor pressure less than 1.5 pounds per square inch absolute

under actual storage conditions or, in the case of loading or processing, under actual loading or processing conditions; and any operation specified below:

1. Volatile organic compound transfer operations.

- a. Any tank of 2,000 gallons or less storage capacity.
- b. Any operation outside the volatile organic compound emissions control areas designated in Appendix P.

2. Volatile organic compound storage operations. Any tank of 40,000 gallons or less storage capacity.

D. Large appliance coating lines.

Any coating line in a plant with an uncontrolled emission rate of not more than 7 tons per year, 40 pounds per day and 8 pounds per hour.

E. Magnet wire coating lines.

Any coating line in a plant with an uncontrolled emission rate of not more than 7 tons per year, 40 pounds per day and 8 pounds per hour.

F. Automobile and light duty truck coating lines.

1. Any coating line in a plant with an uncontrolled emission rate of not more than 7 tons per year, 4 pounds per day and 8 pounds per hour.
2. Any vehicle refinishing operation.

G. Can coating lines.

Any coating line in a plant with an uncontrolled emission rate of not more than 7 tons per year, 40 pounds per day and 8 pounds per hour.

H. Metal coil coating lines.

Any coating line in a plant with an uncontrolled emission rate of not more than 7 tons per year, 40 pounds per day and 8 pounds per hour.

I. Paper and fabric coating lines.

Any coating line in a plant with an uncontrolled emission rate of not more than 7 tons per year, 40 pounds per day and 8 pounds per hour.

J. Vinyl coating lines.

Any coating line in a plant with an uncontrolled emission rate of not more than 7 tons per year, 40 pounds per day and 8 pounds per hour.

K. Metal furniture coating lines.

Any coating line in a plant with an uncontrolled emission rate of not more than 7 tons per year, 40 pounds per day and 8 pounds per hour.

L. Miscellaneous metal parts and products coating application systems.

1. Any coating application system in a plant with an uncontrolled emission rate of not more than 7 tons per year, 40 pounds per day and 8 pounds per hour.
2. Any vehicle customizing coating operation, if production is less than 20 vehicles per day.
3. Any vehicle refinishing operation.
4. Any aircraft or marine vessel exterior coating operation.

M. Flatwood paneling coating application systems.

Any coating application system in a plant with an uncontrolled emission rate of not more than 7 tons per year, 40 pounds per day and 8 pounds per hour, if the system is used on one of the following paneling types:

1. Printed interior panels made of hardwood plywood and thin particleboard.
2. Natural finish hardwood plywood panels.
3. Class II hardwood paneling finishes.

N. Graphic art (printing processes).

Any coating application system in a plant which has the potential to emit less than 100 tons per year, if the plant is engaged in flexographic, packaging or publication rotogravure printing.

O. Petroleum liquid storage and transfer operations.

Any storage or transfer operation involving petroleum liquids with a vapor pressure less than 1.5 pounds per square inch absolute under actual storage conditions or, in the case of loading or processing, under actual loading or processing conditions (kerosene and fuel oil used for household heating have vapor pressures of less than 1.5 pounds per square inch absolute under actual storage conditions; therefore, kerosene and fuel oil are not subject to the provisions of § 120-08-01 when used or stored at ambient temperatures); and any operation specified below:

1. Gasoline bulk loading - bulk terminal. Any operation outside volatile organic compound emissions control areas designated in Appendix P.
2. Gasoline dispensing facilities - transfer of gasoline - Stage I.
 - a. Any tank of 2,000 gallons or less storage capacity.

b. Any facility with an expected monthly throughput of less than 20,000 gallons.

c. Any operation outside volatile organic compound emissions control areas designated in Appendix P or inside rural volatile organic compound emissions control areas designated in Appendix P.

3. Bulk plants - gasoline bulk loading.

a. Any facility with an expected daily throughput of less than 4,000 gallons.

b. Any operation outside volatile organic compound emissions control areas designated in Appendix P or inside rural volatile organic compound emissions control areas designated in Appendix P.

4. Account/tank trucks. No permit is required for account/tank trucks, but permits issued for gasoline storage/transfer facilities should include a provision that all associated account/tank trucks meet the same requirements as those trucks serving existing facilities.

5. Petroleum liquid storage.

a. Any tank of 40,000 gallons or less storage capacity.

b. Any tank of less than 420,000 gallons storage capacity for crude oil or condensate stored, processed and/or treated at a drilling and production facility prior to custody transfer.

c. Any tank storing waxy, heavy pour crude oil.

III. New sources with no exemptions.

Facilities as specified below shall not be exempt, regardless of size or emission rate, from the requirements of § 120-08-01 as they pertain to construction, reconstruction or relocation.

- A. 1. Petroleum Refinery Operations
- B. 2. Asphalt Plants
- C. 3. Chemical Fertilizer Manufacturing Operations
- D. 4. Kraft Pulp Mills
- E. 5. Sand and Gravel Processing Operations
- F. 6. Coal Preparation Plants
- G. 7. Stone Quarrying and Processing Operations
- H. 8. Portland Cement Plants
- I. 9. Wood Product Manufacturing Operations

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- J. 10. Secondary Metal Operations
- K. 11. Lightweight Aggregate Process Operations
- L. 12. Feed Manufacturing Operations
- M. 13. Incinerators
- N. 14. Coke Ovens
- O. 15. Sulfuric Acid Production Units
- P. 16. Sulfur Recovery Operations
- Q. 17. Primary Metal Operations
- R. 18. Nitric Acid Production Units
- S. 19. Concrete Batching Plants
- T. 20. Pharmaceutical Products Manufacturing Operations
- U. 21. Rubber Tire Manufacturing Operations
- V. 22. Dry Cleaning Systems

IV. New source exemption levels by emission rate.

Facilities not covered by Section II or III of this appendix shall be exempt as specified below.

A. Facilities with uncontrolled emission rates less than all of the significant emission rates specified below shall be exempt from the requirements of § 120-08-01 pertaining to construction, reconstruction or relocation.

SIGNIFICANT EMISSION RATES

Carbon monoxide - 100 tons per year.

Nitrogen dioxide - 10 tons per year.

Sulfur dioxide - 10 tons per year.

Particulate matter - 1 ton per year.

Volatile organic compounds - 7 tons per year.

Lead - 0.6 ton per year.

B. Where a source is constructed in increments which individually are not subject to approval under this section and which are not part of a program of construction in planned incremental phases approved by the board, all such increments shall be added together for determining the applicability of this section.

V. Modified source exemption levels by emission rate.

A. Facilities with increases in uncontrolled emission

rates less than all of the significant emission rates specified below shall be exempt from the requirements of § 120-08-01 pertaining to modification.

SIGNIFICANT EMISSION RATES

Carbon monoxide - 100 tons per year.

Nitrogen dioxide - 10 tons per year.

Sulfur dioxide - 10 tons per year.

Particulate matter - 1 ton per year.

Volatile organic compounds - 7 tons per year.

Lead - 0.6 ton per year.

B. Where a source is modified in increments which individually are not subject to approval under this section and which are not part of a program of modification in planned incremental phases approved by the board, all such increments shall be added together for determining the applicability of this section.

VI. New source performance standards and national emission standards for hazardous air pollutants.

Regardless of the provisions of Sections II, IV and V of this appendix, affected facilities subject to Rule 5-5 or subject to Rule 6-1 shall not be exempt from the provisions of § 120-08-01.

VII. Relocation of portable facilities.

Regardless of the provisions of Sections II, III, IV, V and VI of this appendix, a permit will not be required for the relocation of a portable emissions unit for which a permit has been previously granted under Part VIII provided that:

A. 1. The emissions of the unit at the new location would be temporary;

B. 2. The emissions from the unit would not exceed its allowable emissions;

C. 3. The unit would not undergo modification or reconstruction;

D. 4. The unit is suitable to the area in which it is to be located; and

E. 5. Reasonable notice is given to the board prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the board not less than 15 days in advance of the proposed relocation unless a different time duration is previously approved by the board.

III. Requirements for exempted fuel burning equipment.

Fuel burning equipment units exempted from the provisions of § 120-08-01 by Section II A of this appendix shall be subject to the provisions of Rule 4-8 unless exempted by § 120-04-0801 of Rule 4-8.

IX. Exemption levels for Non-Criteria toxic pollutants.

A. Facilities with uncontrolled emission rates a potential to emit a [toxic] pollutant equal to or less than the significant emission rates specified below for the applicable TLV[®] the exempt emission rate calculated using the following exemption formulas for the applicable TLV[®] shall be exempt from the requirements of § 120-08-01 pertaining to construction, modification, reconstruction or relocation. If more than one exemption formula applies to a [toxic] pollutant [emitted by a source], the potential to emit that pollutant shall be equal to or less than [each both] applicable exemption [formula formulas] in order for the [pollutant source] to be exempt [for that pollutant]. The exemption formulas apply on an individual basis to each [toxic] pollutant for which a TLV[®] has been established.

A. For [toxic] pollutants with a TLV-C[®], the following exemption formula applies, provided the potential to emit does not exceed 22.8 pounds per hour:

Exempt Emission Rate (pounds per hour) =

$$TLV-C (mg/m^3) \times 0.033$$

B. For [toxic] pollutants with both a TLV-STEL[®] and a TLV-TWA[®], the following exemption formulas apply, provided the potential to emit does not exceed 22.8 pounds per hour or 100 tons per year:

Exempt Emission Rate (pounds per hour) =

$$TLV-STEL^{\circ} (mg/m^3) \times 0.033$$

Exempt Emission Rate (tons per year) =

$$TLV-TWA^{\circ} (mg/m^3) \times 0.145$$

C. For [toxic] pollutants with only a TLV-TWA[®], the following exemption formulas apply, provided the potential to emit does not exceed 22.8 pounds per hour or 100 tons per year:

Exempt Emission Rate (pounds per hour) =

$$TLV-TWA^{\circ} (mg/m^3) \times 0.066$$

Exempt Emission Rate (tons per year) =

$$TLV-TWA^{\circ} (mg/m^3) \times 0.145$$

D. Exemption from the provisions of this rule for any stationary source or operation not part of a stationary

source which has a potential to emit any toxic pollutant without a TLV[®] shall be determined by the board using available health effects information.

E. The exemption determination shall be made by the board using information submitted by the owner at the request of the board as set out in § 120-05-0305.

B. Facilities with increases in uncontrolled emission rates less than the significant emission rates specified below for the applicable TLV[®] shall be exempt from the requirements of § 120-08-01 pertaining to modification.

SIGNIFICANT EMISSION RATES

TLV [®] (mg/m ³)	Range	Emission Rates (pounds/hour)
less than 1		0
1-2		0-13
3-5		0-76
6-12		1-52
13-25		3-29
26-50		6-58
51-250		12-90
251-500		63-51
501 or greater		126-77

C. Where a source is constructed or modified in increments which individually are not subject to approval under this section and which are not part of a program of construction or modification in planned incremental phases approved by the board, all such increments shall be added together for determining the applicability of this section.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Education will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 270-01-003. Standards for Interdepartmental Regulation of Residential Facilities for Children.

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Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 63.1-217, 66-10, and 66-24 of the Code of Virginia.

Effective Date: October 9, 1991.

Summary:

Under the current definitions and exceptions in the Code of Virginia the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services are responsible for the regulation of public and private residential facilities providing care or treatment to children. The regulation is designed to assure that adequate care, treatment, and education are provided by residential facilities for children.

The revisions amend the requirements of § 4.3 of the Interdepartmental Standards to rectify dissonance with recent revisions to § 27.97 et seq. of the Code of Virginia. Sections 27.97 et seq. allow local governing body adoption of the "Code." Localities which adopt the code are responsible for its enforcement. The Office of the State Fire Marshal is responsible for inspections and enforcement in localities which do not adopt the code. Many localities have adopted the "Virginia Statewide Fire Prevention Code" and local fire authorities are inspecting some facilities previously inspected by the Office of the State Fire Marshal. The Office of the State Fire Marshal is conducting inspections of some facilities previously inspected by local fire authorities.

The revisions also amend the requirements of § 5.22 of the Interdepartmental Standards to rectify dissonance with recent revisions to § 63.1-204 of the Code of Virginia. Revisions to § 63.1-204 establish more flexible admissions requirements for temporary care facilities regulated by the Department of Social Services. The revisions provide temporary care facilities eight hours following the child's arrival at the facility to obtain and document verbal approval for placement from the legal guardian. The revisions also provide temporary care facilities 24 hours following the child's arrival or until the end of the next business day after the child's arrival, whichever is later, to obtain a written placement agreement signed by the legal guardian and facility representative.

NOTICE: Please refer to the Department of Social Services in the Final Regulations section of this issue of the Virginia Register of Regulations for the publication of "Standards for Interdepartmental Regulations of Residential Facilities for Children."

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Title of Regulation: VR 320-01-04. [Curriculum for]

Resident Trainee Program [for Funeral Service]

Statutory Authority: §§ 54.1-2803 and 54.1-2817 of the Code of Virginia.

Effective Date: October 9, 1991.

Summary:

The final regulations establish standards for the funeral service training program. The regulations are designed to ensure the public protection by establishing a core of knowledge for trainees enrolled in the board's apprenticeship program. The final regulations are believed to reflect current standards and practices and to be defensible in light of increased federal oversight and consumer concern for funeral practices.

The final regulations represent an extensive reorganization of trainee requirements made in response to comments of the Department of Planning and Budget, the Office of the Secretary of Health and Human Resources, and the Board of Health Professions. Although the revisions are extensive, they are in the nature of consolidation and improvement in clarity and enforceability. Only one change in trainee requirements is substantive: a requirement that resident trainees not be simultaneously attending school on a full-time basis.

An additional change was made to reduce substantially the proposed fee for the verification of licensure in other jurisdictions which is required prior to the issue of a "courtesy card" for time-limited practice in the Commonwealth.

VR 320-01-04. Resident Trainee Program for Funeral Service.

[PART I: TRAINEE REQUIREMENTS.

§ 1.1. The trainee will have a working knowledge of all regulations of the Board of Funeral Directors and Embalmers:

§ 1.2. The trainee will have a working knowledge of the Federal Trade Commission's Funeral Rule.

§ 1.3. The trainee will have a working knowledge of the Virginia Department of Health laws governing vital statistic reporting.

§ 1.4. The trainee will have a working knowledge of the Virginia Department of Health laws governing the responsibilities of the medical examiner and laws governing cremation.

§ 1.5. The trainee will have a working knowledge of the federal government Occupational Safety and Health

Administration (OSHA) laws:

§ 1.6. The trainee will have a working knowledge of the Infectious Waste Management Regulations of the Department of Waste Management.

§ 1.7. The trainee will have a working knowledge of the laws governing the filing of Veteran's Administration claims.

§ 1.8. The trainee will have a working knowledge of the laws governing the filing of Social Security benefit claims.

§ 1.9. The trainee will have a working knowledge of the Health Department's laws governing, and permits required for, disinterments.

§ 1.10. The trainee will have a working knowledge of the Health Department's laws governing, and permits required for, shipping a body to another country.

§ 1.11. The trainee will have a working knowledge of the Health Department's laws governing, and permits required to, ship a body by public transport within the United States.

§ 1.12. The trainee will learn the funeral home's filing system for retention of documents per the board's requirements.

PART II: FORMS.

§ 2.1. The trainee will construct for practice:

1. A general price list,
2. An itemized statement of funeral goods and services,
3. A casket price list, and
4. An outer burial container price list. Requirements of the

§ 2.2. The trainee will:

1. Be taught and be able to explain the prices of a funeral to his supervisor, and review.

§ 2.3. The trainee will:

1. Observe completions of death certificates including fetal death certificates, and
2. Complete death certificates for the physician's signature.

§ 2.4. The trainee will:

1. Observe completion of Veteran Administration

forms, and

2. Complete Veteran Administration forms.

§ 2.5. The trainee will:

1. Observe the completion of requests for cremation forms, and
2. Complete requests for cremation forms.

§ 2.6. The trainee will:

1. Observe the completion of Social Security forms, and
2. Complete Social Security forms.

§ 2.7. The trainee will complete and submit the Vital Statistics report to the Virginia Department of Health.

§ 2.8. The trainee will observe and assist the supervisor working with the Department of Social Services in completing forms for indigent services.

§ 2.9. The trainee will observe the embalmer completing the embalming report.

§ 2.10. The trainee will complete embalming reports on the embalmings the trainee performs.

§ 2.11. The trainee will have a working knowledge of the preneed contracts and disclosure information used by the establishment.

§ 2.12. The trainee will have a working knowledge of the preneed funding forms used by the establishment.

§ 2.13. The trainee will observe the supervisor completing preneed forms.

§ 2.14. The trainee will complete a mock preneed arrangement with the supervisor including explaining of disclosures.

PART III: KNOWLEDGE OF COMMUNITY

§ 3.1. The trainee will have a working knowledge of all area hospitals and nursing homes, their names, locations, and contact persons.

§ 3.2. The trainee will be introduced to the regional medical examiner in the manner established by the firm, know the medical examiner's name, and location.

§ 3.3. The trainee will have a working knowledge of the location of the city or county morgue and a contact person.

§ 3.4. The trainee will have a working knowledge of the

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local police department and who to contact for assistance with a death or funeral.

§ 3.5. The trainee will have a working knowledge of the area cemeteries and crematoriums, their names, locations, and contact persons.

§ 3.6. The trainee will have a working knowledge of the churches and synagogues in the area, their names, locations, and contact persons.

PART IV. THE CALL

§ 4.1. The trainee will:

1. Observe telephone etiquette for taking a death call, and
2. Handle death calls by telephone.

§ 4.2. The trainee will:

1. Participate with others in a removal, and
2. Be in charge of the removal and a part of the removal team.

§ 4.3. The trainee will:

1. Observe the procedure for the return of the body to the funeral home and placing it in the preparation room or holding room, and
2. Return the body to the funeral home and place it in the preparation room or holding room awaiting embalming or final disposition.

§ 4.4. If the body is to be embalmed:

1. The trainee will observe the supervisor obtaining permission for embalming.
2. If permission is verbal, observation of the documentation of that permission takes place.
3. The trainee will obtain permission for embalmings.
4. If permission is verbal, the trainee will document that permission.

§ 4.5. If the next of kin cannot be located:

1. The trainee will observe the recording and documentation of that information and the reasons why the embalming took place without authorization.
2. The trainee will record and document embalming that took place when the next of kin cannot be located.

PART V. KNOWLEDGE OF OTHERS.

§ 5.1. The trainee will have a working knowledge of, and ability to explain to supervisor, different religious rites.

§ 5.2. The trainee will have a working knowledge of, and ability to explain to supervisor, different fraternal rites.

§ 5.3. The trainee will have a working knowledge of, and ability to explain to supervisor, different military rites.

§ 5.4. The trainee will have a working knowledge of burial customs of various nationalities within the community.

PART VI. MEETING WITH THE FAMILY.

§ 6.1. The trainee will honor the confidentiality of every family and family member.

§ 6.2. The trainee will:

1. Observe telephone etiquette for giving prices over the telephone, and
2. Respond to price inquirers by telephone.

§ 6.3. The trainee will observe the supervisor meeting with the family and discussing prices, disclosures, viewing merchandise, taking information, contacting clergy, contacting newspaper, etc.

§ 6.4. The trainee will meet with the supervisor and make mock arrangements for a funeral service to include the general price lists, container price lists, and completing an itemized statement of goods and services.

§ 6.5. The trainee will learn the required time to give price lists and itemized statements to the family.

§ 6.6. The trainee will:

1. Observe completions of vital statistics information,
2. Practice taking vital statistic information with the supervisor, and
3. In the supervisor's presence, gather vital statistic information from a family.

§ 6.7. The trainee will:

1. Observe the gathering of information for the obituary notice,
2. In the supervisor's presence, gather obituary information from a family supervisor's presence, gather obituary information from the family, and
3. Work with the newspapers involved to file the

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obituary notice.

§ 6.8. The trainee will observe the selection room technique with a family present.

§ 6.9. The trainee will practice the selection room technique with the supervisor.

§ 6.10. The trainee will, with the supervisor present, assist a family in the selection room.

§ 6.11. The trainee will:

1. Learn about the various cash advance items that can be ordered from a third party,
2. Learn how cash advance items are priced by the funeral home,
3. Learn how the process is explained to a family when the funeral home receives a rebate or volume discount, and
4. Make cash advance arrangements with third parties.

§ 6.12. The trainee, with the supervisor present, will make all arrangements for the funeral service with a family and then will make all arrangements for the service.

§ 6.13. The trainee will observe the supervisor handling a traumatic occurrence for the family if such ever occurs in the facility. This might be recommending a closed casket, allowing the family to view the body after recommending against an open casket, a family who observed an improper embalming or restoration, etc. If these difficult cases occur, the trainee will have the opportunity to observe the handling of the situation.

§ 6.14. The trainee will:

1. Observe the supervisor working with the local crematory or cemetery completing forms for the final disposition, and
2. Complete the paper work necessary for burial in a particular cemetery or cremation at a particular crematory.

§ 6.15. The trainee will, with the supervisor present, arrange a direct cremation with a family.

§ 6.16. The trainee will, with the supervisor present, arrange an immediate burial with a family.

§ 6.17. The trainee will:

1. Observe the supervisor completing preneed forms with a family, and
2. With the supervisor present, complete preneed forms with a family, including explaining of

disclosures.

PART VII. MERCHANDISING.

§ 7.1. The trainee will become thoroughly familiar with the merchandise offered by the establishments, both special order and in stock.

§ 7.2. The trainee will learn to display the merchandise and will stock the display room.

§ 7.3. The trainee will be able to explain the features and prices of merchandise to his supervisor and later to a family.

§ 7.4. The trainee will:

1. Observe the supervisor ordering merchandise, and
2. With the supervisor present, place an order for merchandise.

§ 7.5. The trainee will:

1. Learn what information must be placed on the casket cards, and
2. Make casket cards.

§ 7.6. The trainee will:

1. Learn color coordination and how to choose clothing to match or compliment caskets, and
2. Observe the supervisor assisting families with clothing.

§ 7.7. The trainee will sell clothing and containers to a family with the supervisor present.

§ 7.8. The trainee will:

1. Observe the supervisor working with a family when preneed merchandise choices are not available at-need, and
2. With the supervisor present, assist a family in choosing at-need substitute merchandise.

PART VIII. CEMETERIES AND CREMATORIALS.

§ 8.1. The trainee will observe cemetery and crematory arrangements being made.

§ 8.2. The trainee will:

1. Practice with the supervisor making cemetery and crematory arrangements, and

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2. Make cemetery and crematory arrangements.

§ 8.3. The trainee will prepare a body for taking to the crematorium.

§ 8.4. The trainee will:

1. Accompany a licensee in taking a body to a crematorium, and
2. Take the body to the crematorium.

§ 8.5. If a crematory is present at the facility, the trainee will remove the ashes from the crematory.

§ 8.6. If a crematory is present at the facility, the trainee will pulverize the cremains.

PART IX. - THE SERVICE.

§ 9.1. The trainee will:

1. Observe the handling of a visitation/viewing,
2. Work visitations/viewings, and
3. Plan visitations/viewings including the arrangement of manpower.

§ 9.2. The trainee will:

1. Observe the coordination of chapel service at the funeral home,
2. Assist with plans for chapel services at the funeral home, and
3. Plan chapel services including arranging for manpower.

§ 9.3. The trainee will:

1. Observe the coordination of church service,
2. Assist with plans for the church service, and
3. Plan church services including arranging for manpower.

§ 9.4. The trainee will assist with funerals by serving as parking attendant.

§ 9.5. The trainee will assist with funerals by ushering for the service.

§ 9.6. The trainee will observe the coordination of graveside services.

§ 9.7. The trainee will plan and staff graveside services including arranging for manpower.

§ 9.8. The trainee will:

1. Observe organization and conduct for funeral processions.
2. Observe organization and scheduling of the police department to assist with the funeral procession, funeral, and recession, and
3. Plan funeral processions including scheduling the assistance of the police department.

§ 9.9. The trainee will assist with funerals by driving the flower car.

§ 9.10. The trainee will assist with funerals by driving the family car.

§ 9.11. The trainee will assist with funerals by driving the funeral coach.

§ 9.12. The trainee will plan an entire "mock" funeral service including visitation, chapel service, church service, and graveside service with his supervisor.

§ 9.13. The trainee will, with the supervisor present, conduct funeral services.

§ 9.14. The trainee will schedule, plan and coordinate multiple services taking place in the establishment at the same time.

§ 9.15. The trainee will prepare service information for the receptionist to use in answering questions.

§ 9.16. The trainee will:

1. Observe the preparations for direct cremation, and
2. Plan and coordinate direct cremation.

§ 9.17. The trainee will:

1. Accompany the licensee to a special location where the cremains will be disposed of in a dignified way,
2. Plan a ceremony for disposition of cremains, and
3. With the supervisor present, conduct a ceremony for disposition of cremains.

§ 9.18. The trainee will observe the planning for immediate burial.

§ 9.19. The trainee will, with the supervisor present, meet with a family to plan an immediate burial.

§ 9.20. The trainee will:

1. Observe the making of arrangements to receive a body from another funeral home, and

2. With the supervisor present, make arrangements to receive the body from another funeral home.

§ 9.21. The trainee will:

1. Observe the making of arrangements to ship a body to another funeral home, and

2. With the supervisor present, make arrangements to ship the body to another funeral home.

§ 9.22. The trainee will plan and conduct 25 funerals during the traineeship. Out of the 25, the trainee will complete five funerals from start to finish.

PART X. EMBALMING AND PREPARATION.

§ 10.1. The trainee will monitor the preparation room for clean gowns, instruments, and stock.

§ 10.2. The trainee will learn the purpose and use of protective clothing and gear during a preparation of a body.

§ 10.3. The trainee will clean and disinfect the preparation room after a procedure.

§ 10.4. The trainee will monitor hazardous and infectious waste management.

§ 10.5. The trainee will clean and sterilize all reusable instruments.

§ 10.6. The trainee will see that the removal cot is remade and prepared with fresh linen after each removal.

§ 10.7. The trainee will have a working knowledge of the instruments and their uses.

§ 10.8. The trainee will have a working knowledge of fluids and their uses.

§ 10.9. The trainee will:

1. Observe the external disinfecting of the body, and
2. Externally disinfect the body.

§ 10.10. The trainee will:

1. Observe the cleaning of the body after an embalming, and
2. Clean the body after an embalming.

§ 10.11. The trainee will:

1. Observe the handling of an infectious disease case, and

2. Be in charge of handling an infectious disease case.

§ 10.12. The trainee will observe an embalming.

§ 10.13. The trainee will personally embalm 25 dead human bodies.

§ 10.14. The trainee will:

1. Observe, when possible, the handling of a tissue gas case, and
2. Handle, when possible, a tissue gas case.

§ 10.15. The trainee will:

1. Observe setting the features, and
2. Set the features on the dead human body.

§ 10.16. The trainee will:

1. Observe the restorative techniques used for a damaged body, and
2. Perform restorative art on a dead human body.

§ 10.17. The trainee will:

1. Observe cosmetology of the deceased, and
2. Perform cosmetology on the dead human body.

§ 10.18. The trainee will:

1. Observe the practice of clothing the dead human body, and
2. Clothe the dead human body.

§ 10.19. The trainee will:

1. Observe the casketing of the dead human body, and
2. Casket the dead human body.

PART XI. PERSONAL ATTRIBUTES.

§ 11.1. The trainee will maintain proper cleanliness and hygiene at all times.

§ 11.2. The trainee will adhere to the dress code of the establishment appropriate to the task being performed.

§ 11.3. The trainee will use proper decorum at all times.

§ 11.4. The trainee will honor the dignity of the dead and the families of the dead at all times.

PART I.

Final Regulations

GENERAL PROVISIONS.

Article 1.

Definitions, Legal Base, Purpose, Applicability.

§ 1.1. Definitions.

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

"Applicant" means a person applying for registration by the board.

"Board" means the Board of Funeral Directors and Embalmers.

"Conduct" means to carryout and perform.

"Registration" means the process of applying to the board to seek approval to serve as a trainee or supervisor.

"Resident trainee" means a person who is preparing to be licensed for the practice of funeral services under the direct supervision of a practitioner licensed by the board.

"Supervisor" means a licensed employee of the establishment which is the training site. The employee is licensed as an embalmer, funeral director, or funeral service licensee and has agreed to supervise the training program of the resident trainee and has been approved by the board to provide supervision.

"Training site" means the licensed funeral establishment which has agreed to serve as the location for resident training and has been approved by the board for the training.

§ 1.2. Legal base.

Section 54.1-2817 of the Code of Virginia describes the responsibility of the Board of Funeral Directors and Embalmers to regulate the resident trainee program for funeral service in the Commonwealth of Virginia.

§ 1.3. Purpose.

These regulations establish the standards for qualifications, training and practice of persons as resident trainees; sites of training; and supervisors of training in the Commonwealth of Virginia.

§ 1.4. Applicability.

Individuals and establishments subject to these regulations are (i) funeral service resident trainees; (ii) licensed funeral homes serving as training sites; and (iii) funeral service licensees, funeral directors, and embalmers serving as training supervisors.

Article 2. Fees.

§ 1.5. Initial fees.

The following fees shall be paid as applicable for registration:

1. Funeral service resident trainee registration\$25
2. Resumption of traineeship after interruption ...\$10

§ 1.6. Renewal fee.

The following annual fee shall be paid for registration renewal:

Resident trainee registration renewal\$25

§ 1.7. Reinstatement fee.

The following reinstatement fee shall be paid in addition to annual renewal fees for reinstatement of an expired registration up to three years following expiration:

Resident trainee registration reinstatement\$10

§ 1.8. Other fees.

A. Duplicates.

Duplicate trainee registration\$2.

B. Other.

1. There shall be a fee of \$25 for returned checks.
2. Fees shall not be refunded once submitted.

Article 3. Renewals.

§ 1.9. Expiration date.

A. The resident trainee registration shall expire on January 31 of each calendar year.

B. A person who fails to renew a registration by the expiration date shall be deemed to have an invalid registration.

C. No credit will be allowed for a traineeship period served under an expired registration.

§ 1.10. Renewal of registration.

A person who desires to renew his registration for the next year shall not later than the expiration date:

1. Return the renewal notice:

2. Submit the applicable fee; and

3. Notify the board of any changes in name, address, employment, or supervisor.

§ 1.11. Reinstatement of expired registration.

The board may consider reinstatement of an expired registration for up to three years following expiration. A written application request for reinstatement shall be submitted to the board and shall include payment of all applicable delinquent renewal fees prescribed in § 1.6 plus the additional reinstatement fee prescribed in § 1.7.

§ 1.12. Reapplication for registration.

When a registration is not reinstated within three years of its expiration date, an applicant for registration shall restart the training program and reapply for traineeship.

PART II. TRAINEE PROGRAM REQUIREMENTS.

Article Training Program: General.

§ 2.1. Resident training.

For applicants applying for initial traineeships after November 1, 1990, the trainee program shall consist of at least 18 months of resident training.

§ 2.2. A resident trainee shall not attend school full time while serving his traineeship.

§ 2.3. Number of trainees limited.

When more than two trainees are requested by a licensed funeral establishment, not more than two trainees will be registered per licensed supervisor at any time.

§ 2.4. Approval of funeral training.

The approval shall apply to and be valid only to:

1. The resident trainee;
2. The licensed person(s) under whom the training is to be given; and
3. The funeral service establishment(s) named in the approval statement.

§ 2.5. Trainee work schedule.

Every resident trainee shall be assigned a work schedule of at least 40 hours each week in order to obtain credit for such training. The trainee shall be required to serve weekday, evening, and weekend shifts to receive training in all areas of funeral service.

Article 2.

Resident Trainees: Requirements and Application Process for Registration.

§ 2.6. Resident trainee requirements.

To be approved for registration as a resident trainee, a person shall:

1. Be a graduate of an accredited high school or the equivalent;
2. Obtain a supervisor approved by the board to provide training;
3. Have not been convicted of a felony. The board, in its discretion, may approve an individual convicted of a felony if he has been pardoned or has had his civil rights restored.

§ 2.7. Trainee application package.

Every qualified person seeking registration with the board as a trainee under the Program for Training of Resident Trainees shall submit an application package which shall include:

1. Completed and signed application;
2. Fee prescribed in § 1.5;
3. Additional documentation as may be required by the board to determine eligibility of the applicant.

§ 2.8. Submission of incomplete application package; exception.

All required parts of the application package shall be submitted at the same time. An incomplete package will be returned to the applicant.

Exception: Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board. National examination scores where applicable will also be accepted from the examining authority.

§ 2.9. Resumption-of-traineeship application.

When a traineeship is interrupted by the trainee, the trainee shall submit a resumption-of-traineeship application to the board prior to resuming his traineeship.

Article 3.

Establishment Application Requirements.

§ 2.10. Training sites.

Funeral training shall be given at the main office of the licensed funeral service establishment approved for training or at any branch of such establishment that

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complies with the provisions of these regulations and is approved by the board as a training site.

§ 2.11. Qualifications of training site.

The board shall approve only an establishment or two combined establishments to serve as the training site(s) which:

1. Have a full and unrestricted Virginia license;
2. Have complied in all respects with the provisions of the regulations of the Board of Funeral Directors and Embalmers; and
3. Have 35 or more funerals and 35 or more bodies for embalming per calendar year for each person to be trained. This total must be maintained throughout the period of training.

§ 2.12. Approval of training site.

An individual, firm, or corporation owning or operating any funeral service establishment shall apply to and be approved by the board prior to permitting funeral training to be given or conducted in the establishment.

§ 2.13. Establishment application package.

Every qualified establishment or combined establishments seeking approval as a training site(s) shall submit an application package which shall include:

1. Completed and signed application; and
2. Additional documentation as may be required by the board to determine eligibility of the establishment.

Article 4.

Supervisor Application Requirements.

§ 2.14. Training supervision.

Training shall be conducted under the direct supervision of a licensee(s) approved by the board.

§ 2.15. Qualifications of supervisor.

The board shall approve only funeral service licensees, licensed funeral directors, or licensed embalmers to give funeral training who:

1. Have a full and unrestricted Virginia funeral license;
2. Have complied in all respects with the provisions of the regulations of the Board of Funeral Directors and Embalmers; and
3. Are employed full time in the establishment where training occurs.

§ 2.16. Supervisor approval.

An individual shall apply to and be approved by the board prior to serving as a supervisor.

§ 2.17. Supervisor application package.

Every qualified person seeking approval of the board as a supervisor shall submit an application package which shall include:

1. Completed and signed application; and
2. Additional documentation as may be required by the board to determine eligibility of the applicant.

§ 2.18. Curriculum compliance.

An approved supervisor shall comply with and shall provide supervision and training as prescribed by these regulations.

Article 5.

Program Requirements.

§ 2.19. Selection of new supervisor.

If the program is interrupted because the approved supervisor is unable to serve, the trainee shall obtain a new supervisor.

§ 2.20. Resumption of training.

Credit for training shall resume when a new supervisor is obtained by the trainee and approved by the board.

Article 6.

Reporting Requirements.

§ 2.21. Report to the board.

The trainee, the supervisor(s), and the establishment shall submit a written report to the board at the end of every six months of training. The report shall:

1. Verify that the trainee has actually served in the required capacity during the preceding six months; and
2. Be received in the board office no later than 10 days following the end of the six-month period. A late report automatically will have credit deducted in two week increments from the completed training time.

§ 2.22. Failure to submit training report.

If the trainee, supervisor, or establishment manager fails to submit the reports required in § 2.21, the trainee shall forfeit all credit for training since the last report made. The board may waive such forfeiture.

§ 2.23. Terminated or interrupted training.

If the training program is terminated or interrupted prior to completion of a six-month period, the trainee and the supervisor shall submit the following information to the board within five working days:

1. Trainee.

a. All partial progress reports to the date of termination for the six-month period; and

b. Written explanation of the causes of program termination/interruption.

2. Supervisor. The supervisor shall submit written explanation of the causes of program termination/interruption.

§ 2.24. Credit for partial reports.

Credit for partial reports shall only be given in increments of one month.

PART III. TRAINING PROGRAM: FUNERAL SUPERVISORS' RESPONSIBILITIES.

Article I. Regulations and Forms.

§ 3.1. Regulations.

The supervisor shall provide the trainee with regulations or sections of regulations relating to the funeral industry as follows:

1. Regulations of the Board of Funeral Directors and Embalmers;

2. Preneed regulations of the Board of Funeral Directors and Embalmers;

3. Virginia Department of Health regulations governing:

a. Vital statistics reporting;

b. Responsibilities of the medical examiner;

c. Cremations and burial at sea;

d. Disinterments and reinterments;

e. Shipping bodies to another country;

f. Shipping bodies by public transport; and

g. Filing of death certificates;

4. Occupational Safety and Health Administration

(OSHA) regulations;

5. Regulations governing the filing of Veteran's Administration and Social Security claims;

6. Federal Trade Commission's Funeral Rule on funeral industry practices.

§ 3.2. Forms.

The supervisor shall provide the trainee with copies of and explanations for the use of:

1. General price list;

2. Itemized statement of funeral goods and services;

3. Casket price list;

4. Outer burial container price list; and

5. Preneed contract.

§ 3.3. Forms completion.

The supervisor shall instruct the trainee in how to complete, and allow the trainee to complete, final forms for business as follows:

1. Itemized statements of funeral goods and services;

2. Preneed contracts;

3. Death certificates;

4. Veteran and Social Security Administration forms;

5. Cremation forms; and

6. Vital statistic reports.

§ 3.4. Preneed funding forms.

The supervisor shall instruct the trainee on the requirements and use of forms used by funding companies for the investment of preneed funds.

Article 2. Knowledge of the Community and Others.

§ 3.5. Community resources.

The supervisor shall provide the trainee with a list of the following and a contact person whom the funeral home uses as a resource at each place.

1. Area hospitals;

2. Area nursing homes;

3. Regional medical examiner;

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4. City or county morgue;

5. Police department;

6. Cemeteries and crematoriums; and

7. Churches, mosques, synagogues.

§ 3.6. Community funeral customs.

The supervisor shall instruct the trainee on the funeral customs of the following:

1. Nationalities served by the funeral home;

2. Religious rites;

3. Fraternal rites; and

4. Military rites.

Article 3. Merchandising.

§ 3.7. Merchandising.

The supervisor shall instruct the trainee on:

1. The features and prices of merchandise offered by the establishment, both special order and in-stock merchandise;

2. How to display merchandise and stock the selection room;

3. How to complete information cards to be displayed on caskets; and

4. How to order merchandise.

Article 4. Initial Arrangements and Meeting with the Family.

§ 3.8. Initial contact.

The supervisor shall allow the trainee to observe and then conduct the following:

1. Taking a death call;

2. Removing a body and transporting it to the funeral home;

3. Placing the body in the preparation or holding room;

4. Obtaining permission for embalming;

5. Documenting verbal permission for embalming; and

6. Documenting the reason for proceeding with an

embalming when the next-of-kin cannot be contacted.

§ 3.9. Confidentiality and dignity.

The supervisor shall instruct the trainee in the meaning of, and ensure that the trainee adheres to, the funeral home policy for:

1. Honoring the confidentiality of every family and family member; and

2. Honoring the dignity of the dead and the families of the dead at all times.

§ 3.10. Initial arrangements.

The supervisor shall allow the trainee to observe and then to practice with the supervisor the following:

1. Giving prices over the telephone;

2. The required time to offer the general price list, casket price list, outer burial container price list, and presenting the itemized statement of funeral goods and services to the family;

3. Meeting with the family and discussing prices and disclosures;

4. Taking vital statistics information;

5. Taking information for obituary notices and filing the notices with the newspaper;

6. Showing the family the merchandise in the selection room;

7. Making cash advance arrangements with a third party; and

8. Arranging with and completing the paperwork for cremations and cemetery burials.

§ 3.11. Meeting with the family.

With the supervisor present and in the same room, the supervisor shall allow the trainee to:

1. Meet with families to discuss prices, disclosures, and making arrangements for at need services;

2. Complete itemized statements of funeral goods and services for presentation to the families;

3. Complete preneed arrangements with families;

4. Explain the features and prices of merchandise to families; and

5. Assist families in choosing at need substitute merchandise when merchandise that is chosen durin

a preneed arrangement is not available at need.

*Article 5.
The Service.*

§ 3.12. Disposition.

The supervisor shall allow the trainee to observe and then conduct the following arrangement for disposition of the body.

1. Making cemetery and crematory arrangements;
2. Taking a body to the crematorium; and
3. Disposing of cremains as requested by the family.

§ 3.13. Services.

The supervisor shall allow the trainee to observe and then conduct with the supervisor present, the following arrangements:

1. Visitation/viewing;
2. Chapel, church, and graveside services;
3. Services for disposition of cremains;
4. Funeral processions;
5. Multiple services taking place simultaneously;
6. Direct cremations;
7. Immediate burials;
8. Receiving bodies from another funeral home;
9. Shipping bodies to another funeral home; and
10. Preparing information sheet on services for receptionist to use in answering questions for the public.

*PART IV.
RESPONSIBILITIES OF EMBALMING SUPERVISOR.*

*Article 1.
Preparation Room.*

§ 4.1. Preparation room.

The supervisor shall instruct the trainee on the following:

1. Stocking the preparation room to meet compliance with regulations;
2. Purpose and use of protective clothing and gear during the preparation of a body;

3. Cleanliness, disinfection, and sanitation requirements for the preparation room;

4. Hazardous and infectious waste management; and

5. Cleaning and sterilizing reusable instruments.

*Article 2.
The Embalming.*

§ 4.2. Embalming: general.

The supervisor shall instruct the trainee on the following:

1. Use and purpose of the embalming instruments;
2. Use and purpose of the embalming fluids; and
3. Use and purpose of the embalming report.

§ 4.3. Embalming.

The supervisor shall allow the trainee to observe, and then conduct with the supervisor present and in the same room, the following:

1. External disinfection of bodies;
2. Cleaning bodies after the embalming;
3. Using precautions in an embalming of bodies harbouring an infectious disease;
4. Preparing bodies with tissue gas;
5. Setting the features on bodies;
6. Using restorative techniques on damaged bodies;
7. Using cosmetology on bodies;
8. Clothing bodies;
9. Casketing bodies; and
10. Embalming bodies.

§ 4.4. Embalming reports.

The supervisor shall have the trainee observe and then complete embalming reports.

*PART V.
THE TRAINEE'S RESPONSIBILITIES.*

*Article 1.
Regulations and Forms.*

§ 5.1. Regulatory agencies.

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The trainee shall be able to list the state and federal agencies that regulate the funeral industry and be able to describe the roles and functions of each agency as it relates to the funeral industry.

§ 5.2. Regulations.

The trainee shall be knowledgeable of the contents of the regulations prescribed in § 3.1 and be able to explain to the supervisor and the board those regulations and how they apply to the funeral industry.

§ 5.3. Forms.

The trainee shall complete the forms prescribed in § 3.3 and be able to explain to the supervisor and the board the use and content requirements of the forms.

§ 5.4. Preneed.

The trainee shall be able to explain to the supervisor and the board preneed funding requirements.

Article 2.

Knowledge of the Community and Others.

§ 5.5. Community resources.

The trainee shall contact at a time of need the funeral home's resource person at each of the facilities prescribed in § 3.5 and make arrangements as pertinent for transporting, removing, services, or disposition of the dead.

§ 5.6. Funeral customs.

The trainee shall be knowledgeable of and be able to explain to the supervisor and the board the funeral customs prescribed in § 3.6.

Article 3. Merchandising.

§ 5.7. Merchandising.

The trainee shall:

1. Display merchandise and learn to stock the selection room;
2. Prepare pricing and information cards to be displayed on the caskets;
3. Be able to explain to the supervisor the features and prices of merchandise; and
4. Place an order for merchandise.

Article 4.

Initial Arrangements and Meeting with the Family.

§ 5.8. Initial contact.

The trainee shall conduct the activities prescribed in § 3.8 under the supervision of the supervisor.

§ 5.9. Meeting with the family.

The trainee shall conduct arrangements with families in the presence of and in the same room with the supervisor as prescribed in §§ 3.10 and 3.11.

Article 5. The Service.

§ 5.10. Disposition and services.

The trainee shall plan and conduct 25 funerals during the traineeship as prescribed in §§ 3.12 and 3.13.

Article 6. Embalming.

§ 5.11. Embalming.

The trainee shall conduct 25 embalmings in the room with and under the supervision of the embalming supervisor. The trainee will conduct all procedures prescribed in § 4.3

§ 5.12. Embalming preparation.

The trainee shall have a knowledge of and be able to explain to the supervisor and the board the purpose and procedures as prescribed in §§ 4.1 and 4.2.

§ 5.13. Embalming reports.

The trainee shall complete embalming reports on the 25 embalmings the trainee conducts.

PART VI. REFUSAL, SUSPENSION, REVOCATION, AND DISCIPLINARY ACTION.

§ 6.1. Disciplinary action.

The board may refuse to issue or renew a license, registration, or approval to any applicant; and may suspend for a stated period of time or indefinitely, or revoke any license, registration, or approval, or reprimand any person, or place his license or registration on probation with such terms and conditions and for such time as it may designate or impose a monetary penalty for failure to comply with the regulations of the training program or the Regulations of the Board of Funeral Directors and Embalmers.

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

NOTICE: The Board of Game and Inland Fisheries is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia); however, it is required by § 9-6.14:22 to publish all proposed and final regulations.

Title of Regulation: VR 325-02-18. Rabbit and Hares.

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: October 1, 1991.

VR 325-02-18. Rabbit and Hares.

§ 4. Trapping with box traps.

It shall be lawful to trap rabbits with box traps from October 15 through January 31, both dates inclusive ; provided , that no traps shall be set on the lands of another without written permission ; *provided further, that it shall be lawful to live-trap rabbits for release or restocking purposes in Virginia at any time .*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

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

Title of Regulation: VR 394-01-102:1. Local Housing Rehabilitation Program: Program Guidelines.

Statutory Authority: §§ 36-137 and 36-141 et seq. of the Code of Virginia.

Effective Date: October 9, 1991.

Summary:

The Local Housing Rehabilitation Program, a part of the Virginia Housing Partnership Fund, provides loans and grants to owners of substandard low and moderate income housing through local governments and nonprofit organizations. The purpose of the program is to upgrade substandard housing in order to increase the supply of safe, decent and affordable housing for low and moderate income owners and tenants. These regulations establish the administrative framework for project sponsor eligibility, operational requirements, distribution of funds, and loan grant terms and conditions.

VR 394-01-102:1. Local Housing Rehabilitation Program: Program Guidelines.

PART I. PURPOSE.

§ 1.1. Purpose.

The Local Housing Rehabilitation Program under the Virginia Housing Partnership Fund allows an approved local government, nonprofit organization, or housing authority to reserve a pool of funds in order to make low-interest loans to residential property owners within their service area for the improvement of their properties. The purpose is to increase the supply and availability of decent and affordable housing for low and moderate income Virginians through preservation of existing housing stock.

PART II. GENERAL PROVISIONS.

§ 2.1. Definitions.

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

"Acquisition" means the purchase of real property.

"Administrative agreement" means a contract between DHCD and the local administrator setting forth the terms and conditions for the operation of the program.

"Application" is the written request for a loan or grant funding under this program.

"Appraised value" means the value assigned to the property as determined by an independent fee appraiser.

"Area median income" means the median income established by HUD for counties, cities or multijurisdictional areas of the Commonwealth.

"Assessed value" is the value assigned to a property as determined by the real estate assessment office of the local government where the same is located for tax purposes. (The applicable assessed value shall be that value in effect as of the date of the application.)

"Borrower" means the individual, for-profit, nonprofit or government entity that has applied and received commitment under this program.

"Commitment fee" means the amount charged by a local administrator to cover the cost of processing a loan. This fee is collected at the closing.

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

"Energy grant" means a grant, available as a result of federal energy litigation, which may be awarded to pay for certain energy-related improvements in rehabilitation projects.

"Energy-related improvements" means physical

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improvements to structures which are being rehabilitated which contribute to fuel cost savings and overall less energy consumption, and which have been so designated by this department.

"Fund" or "VHPF" means the Virginia Housing Partnership Fund.

"General improvements" means permanent additions, alterations, renovations, or repairs made for the purpose of making housing more habitable and more desirable to live in.

"Gross income" is the total income from all sources, before taxes or withholdings, of all residents residing in a housing unit, age 18 or older.

"HQS" means the Housing and Urban Development Section 8 Housing Quality Standards.

"Household" means all persons related or unrelated living together as one economic unit.

"HUD" means the U.S. Department of Housing and Urban Development.

"LMI" means low and moderate income person(s) that have income levels not exceeding 80% of the area's median income.

"Loan" means funds provided to program recipients under the Virginia Housing Partnership Fund wherein repayment is required at rates and terms as established by DHCD.

"Local administrator" is the nonprofit, for-profit, incorporated organization or PHA unit of local government that enters into a contract/agreement with DHCD for undertaking project activities.

"Locality" means a city, county or town.

"Multifamily" means property with two or more complete dwelling units.

"Nonprofit" means an organization certified by the Internal Revenue Service as having § 501(c)(3) nonprofit status.

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

"Reservation" means funds set aside for a project prior to negotiation of an administrative agreement or commitment.

"Service area" means the geographic area/jurisdiction which the applicant intends to serve.

"Single family" means a structure with one complete dwelling unit.

"Stripper oil well funds" are United States Department of Energy moneys awarded to the Commonwealth for specific purposes to resolve alleged pricing violations in effect between 1973 and 1981 by crude oil providers.

"Substandard" means does not meet HQS.

"VHDA" means the Virginia Housing Development Authority.

PART III. ELIGIBILITY.

§ 3.1. Eligible applicants.

1. Units of local government.
2. Housing authorities.
3. Nonprofit organizations incorporated under the Commonwealth of Virginia.

PART IV. FUND RESERVATION.

§ 4.1. Fund reservation.

A. Funds will be made available initially on a competitive basis to eligible applications that meet the minimum requirements, as set forth in Part VI of these guidelines. DHCD may reduce the amount of funds requested upon review of the application.

B. Approved local administrators, in good standing, may apply for funds at any time once 80% of existing funds are committed.

C. Any funds remaining after the competitive awards will be available to applicants on a first come/first serve basis. This will include new applicants as well as existing local administrators who have committed 80% of their previous allocation.

D. Upon selection as a local administrator, a reservation will be made for up to a three-month period to allow time for program start-up and administrative agreement negotiation. The reservation may be divided into two portions:

1. Loan funds; and
2. Grant funds for energy-related improvements.

Local administrators who have not entered into an administrative agreement within the three-month reservation period may lose all or a portion of their reservation.

E. Applicants will propose a timeframe for the operation of their program. The maximum term for completion of the program will be 24 months. ALL FUNDS SHALL BE COMMITTED AND ALL WORK COMPLETED DURING THE APPROVED PROJECT PERIOD.

F. ~~Up to~~ *The Department may approve an administrative fee equivalent to not more than* 5.0% of funds allocated ~~[may be used for administration and project management]~~ based on ~~[project]~~ performance.

§ 4.2. Maximum reservation ~~[requests amounts]~~.

A. The maximum request per application shall be \$500,000.

~~[B. The maximum amount which can be used as grant funds for energy-related repairs shall be no more than 15% of the funds requested. B. The maximum amount of energy grant funds for each project shall not exceed 25% of the total amount of the request. The energy grant funds shall be used to cover the costs of eligible energy improvements only.]~~

§ 4.3. Coordination.

DHCD will ensure delivery of the program based on geographic distribution and service area. In cases where there may be more than one applicant serving the same jurisdiction, DHCD will work to coordinate the programs with the applicants regarding their service area or population.

PART V. PROGRAM DESIGN.

§ 5.1. Eligible borrowers.

1. LMI owner/occupants of single family dwellings; or
2. Owners of rental property that house LMI persons.

§ 5.2. Eligible properties.

A. Substandard single family properties, owner-occupied or rental, that house LMI persons.

B. Substandard multifamily properties containing 10 or fewer units, that house LMI persons.

C. Properties must be feasible for rehabilitation. Building permits must be obtained, and upon completion the properties must comply with HQS as well as local zoning and code requirements.

§ 5.3. Eligible activities.

A. Rehabilitation including general improvements and energy-related improvements.

B. Replacement housing when rehabilitation is not

economically feasible. GRANT FUNDS MAY NOT BE USED ON REPLACEMENT HOUSING.

C. Acquisition when rehabilitation is also being done may be approved by the state on a case-by-case basis upon verification of need. Evidence of need must be documented for all improvements undertaken. LUXURY IMPROVEMENTS ARE PROHIBITED.

§ 5.4. Loan terms and conditions.

A. Maximum loan amounts.

1. ~~Owner-occupied Single family~~ properties may use up to ~~\$20,000~~ \$25,000 in VHPF funds ~~[of which up to 15% may be a grant for energy-related improvements. Grants must be a part of a VHPF loan package. per property. This amount shall include energy grants for eligible energy improvements.]~~

2. The following per unit maximum loans/grants will apply to rental property. ~~[Of these amounts, 15% may be a grant for energy-related improvements. These amounts shall include energy grants for eligible energy improvements.]~~

Efficiency/1 bedroom	\$10,000	\$15,000
2 bedroom	\$12,500	\$15,000
3 bedroom	\$15,000	\$20,000
4 or more bedroom	\$17,500	\$20,000

B. Interest rate.

All loans will be at a fixed rate of interest. Interest rates may range from 0.0% to 8.0% at the discretion of the local administrator. The local administrator must describe the method of establishing rates in the program application. The local administrator must ensure an average return of 4.0% for the entire portfolio.

C. Term of loans.

The maximum term of loans shall not be more than 15 years (180 months). Loan terms should be adjusted so that payments are not less than \$25 per month.

D. Term of grants.

The grant portion of funds shall be secured along with the loan portion. The grant will be deferred for the first three years and forgiven at a rate of 25% for the next four years, provided that any grant amount remaining on June 30, 1998, will be forgiven in full.

E. Requirements of securing the loan grant.

On owner/occupied property the applicant/borrower must have the majority ownership (at least 51%) interest in the property. All owners must sign the deed of trust. For investor owned property, all owners must be applicant/borrowers. Liens will be recorded on the

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property secured by a deed of trust. The liens shall be divided between loan proceeds and grant proceeds. Title insurance shall be required on all loans and loan/grant combinations exceeding \$7,500. DHCD will accept a subordinate position to an existing mortgage or when primary rehabilitation financing is provided by another source.

F. Loan-to-value ratio.

The loan-to-value ratio shall be based on the appraised value of the property after repairs and improvements. In general the loan-to-value shall not exceed 90% of the appraised value. However, for single family properties, the assessed value may be used providing the loan-to-value does not exceed 100% of the pre-rehabilitation assessed value. ALL ENCUMBRANCES AGAINST THE PROPERTY WHICH ARE SUPERIOR TO THE VHPF DEBT MUST BE CALCULATED IN THE LOAN-TO-VALUE RATIO.

G. Sale or transfer restrictions.

A loan or loan/grant may be assumed by a subsequent purchaser if the purchaser meets the income requirements or will rent to tenants that meet the income requirements. Approval of DHCD will be required for any such assumptions.

H. Waivers.

DHCD will accept requests for waivers to one or more of the program requirements on a case-by-case basis. In granting any such waiver, DHCD will look at the merits of each case relative to need, benefits, and intent of the program.

PART VI. EVALUATION CRITERIA.

§ 6.1. Application evaluation criteria.

A. Project need.

The application shall address the need and demand for rehabilitation activities in the service area for low and moderate income persons. AT A MINIMUM THIS NEED MUST BE DOCUMENTED BY A HOUSING SURVEY IN A FORM AS MAY BE PRESCRIBED BY THE STATE. Census data may be used as references but will not be accepted as a needs assessment.

B. Program design.

The program design shall address all phases of the operation of the program to include outreach, application intake, underwriting, project management, cost estimating and any other aspects of the local rehabilitation program. THE PROGRAM DESIGN SHALL BE CONSISTENT WITH THE REQUIREMENTS SET FORTH IN THESE GUIDELINES. The application shall include the proposed timeframe and the number of units proposed for the

program period.

C. Leveraging.

The amount of other program funds will be used to determine leverage ratios. These ratios will be considered in ranking proposals. OTHER FUNDS MAY INCLUDE HOUSING AND OTHER NEIGHBORHOOD IMPROVEMENTS WHICH ARE A PART OF THE PROPOSED PROJECT.

D. Administrative capacity.

The application shall include information on staff expertise in all areas of program administration and project management. Plans for hiring any additional staff should be noted. Applications will be evaluated on staff expertise and ability to implement the program in a timely manner. Percentages should be given to represent each staff person's time directly related to this program.

* * * * *

Title of Regulation: VR 394-01-103. Multifamily Loan Program.

Statutory Authority: §§ 36-137 and 36-141 et seq. of the Code of Virginia.

Effective Date: October 9, 1991.

Summary:

Responding to critical housing problems facing the Commonwealth, as documented in the 1987 Annual Report of the Virginia Housing Study Commission, the Governor and the General Assembly established the Virginia Housing Partnership Revolving Loan Fund. The purpose of the Fund is to increase the availability of decent and affordable housing for low and moderate income Virginia residents. The Multifamily Loan Program provides low interest loans from the Virginia Housing Partnership Fund. The purpose of the program is to increase the supply and quality of rental housing for low and moderate income residents. Regulations for the Multifamily Loan Program establish the administrative framework for project sponsor eligibility, operational requirements, distribution of funds, and loan grant terms and conditions.

VR 394-01-103. Multifamily Loan Program.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Acquisition" means the purchase of real property.

"Applicant" means an individual, incorporated nonprofit, for-profit, or government entity, that makes application for funds under the Virginia Housing Partnership Fund.

"Application" is the written request, as published by the Department of Housing and Community Development, for a loan or grant funding under the Virginia Housing Partnership Fund.

[*"Application date"* means the date on which a completed application is received by DHCD.]

"Appraised value" means the monetary worth of property as determined by an appraiser.

"Area median income" means the median income established by HUD for various areas.

"Assessed value" is a monetary worth of the facility/property as determined by the real estate assessment office of the local government where the same is located for tax purposes. (The applicable assessed value shall be that value in effect as of the date of the application.)

"Borrower" means the individual, for-profit, nonprofit or government entity that has been approved for funding under the Virginia Housing Partnership Fund.

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

"Energy grant" means a grant, available as a result of federal energy litigation, which may be awarded to pay for certain energy-related improvements.

"Energy-related improvements" means physical improvements to structures which are being rehabilitated which contribute to fuel cost savings and overall less energy consumption, and which have been so designated by this department.

"Fund" means the Housing Partnership Revolving Loan Fund.

"General improvements" means additions, alterations, renovations, or repairs made for the purpose of making housing more habitable and more desirable to live in. [*These improvements must be permanent.*] Improvements shall not include materials, fixtures, or landscapes of a type or quality which exceed that customarily used in the locality for properties of the same general type as the property to be improved.

"Grant" means funds provided to program recipients under the Virginia Housing Partnership Fund [*which, assuming satisfactory compliance with all terms and conditions, will not require repayment*].

"Grant agreement" means the contract between DHCD and the project sponsor containing the terms and conditions provided for within the program.

"Gross income" is the total income from all sources and before taxes or withholdings of all residents residing in a housing unit, age 18 or older.

"HQS" means the Housing and Urban Development Section 8 Housing Quality Standards.

"Household" means all persons related or unrelated living together as one economic unit.

"HUD" means the Department of Housing and Urban Development.

"Individual" is a single person who submits an applicant pursuant to the program guidelines.

"Loan" means money lent with interest for a specified period of time.

"Loan application" means the request for funding for purposes as defined in the program guidelines.

"Loan [Application date" means the date on which a completed application is received by DHCD.]

"Loan note" means the agreement between DHCD and the project sponsor pertaining to the terms and conditions governing funding by the Virginia Housing Partnership Fund, including repayment provisions.

"Lower-income" means [80 80%] of median income for the service area as established by the U.S. Department of Housing and Urban Development also referred to LMI.

"Multifamily" means property with two or more complete dwelling units.

"Oil overcharge expenditure trust fund" are the United States Department of Energy moneys awarded to the Commonwealth for specific purposes to resolve alleged pricing violations in effect between 1973 and 1981 by crude oil providers; also referred to as Oil Overcharge Funds.

"Program" means the plan for funding under the Multifamily Loan Program.

"Project sponsor" means an individual, family, nonprofit, for profit or incorporated organization that enters into a contract/agreement with DHCD to undertake activities in accordance with the program guidelines.

"Rehabilitation" means [*substantial significant*] physical improvements/repairs to a facility which will secure it structurally, correct building, health or fire safety codes related defects, increase energy efficiency and assure safe and sanitary operation.

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“*Set-aside*” means funds reserved for a specified period, by the department, to finance a multifamily project.

“*Site control*” means the possession of or authorization to use real property by means of ownership, lease or option.

“*State [or Commonwealth]*” means the Virginia Department of Housing and Community Development, also referred to as DHCD and the department.

“*VHDA*” means Virginia Housing Development Authority.

“*VHPF*” means the Virginia Housing Partnership Fund.

PART II. ELIGIBILITY.

§ 2.1.

Eligible applicants.

1. Nonprofit organizations incorporated under the laws of the Commonwealth of Virginia ;
2. Governmental entities, including local redevelopment and housing authorities;
3. Private, for-profit organizations; or
4. Individual investors.

§ 2.2. Eligible activities.

Loan funds may be used to rehabilitate existing multifamily housing, [~~or~~] to acquire and rehabilitate existing multifamily housing, [~~or~~] to construct new multifamily housing : A second priority will include projects which involve only acquisition , or to acquire existing low-income housing which can be proven to be at risk of falling out of the LMI housing stock .

A. In rehabilitation projects, property must be brought up to HUD Section 8 Housing Quality Standard (HQS).

B. Energy improvements which exceed HUD Section 8 Housing Quality Standards are encouraged. Eligible energy improvements are authorized and published by the state.

C. Funds may also be used for other General Improvements.

D. Luxury improvements are prohibited.

E. Upon completion of a new construction project, the property must meet the Uniform Statewide Building Code.

F. Reasonable fees and expenses incurred in the process of obtaining the loan may be financed in the loan, including credit report fee, appraisals, surveys, engineering and architectural fees, legal fees, recording costs, and

commitment fees.

G. DHCD will accept requests for waivers to one or more of the program requirements on a case by case basis. In granting such a waiver, DHCD will look at the merits of each case relative to need, benefits, and intent of the program.

H. Construction financing will be available only when the sponsor can demonstrate that alternative financing is not available. Construction financing will only be disbursed in order of lien priority.

I. Refinancing of existing debt may be available if necessary for project feasibility.

§ 2.3. Eligible projects.

A. All projects must contain two or more units.

B. To qualify as a rehabilitation project, 75% of the exterior walls must be retained.

C. Conversion of commercial or institutional properties to residential use is permitted as long as the property is in conformance with zoning and other local requirements for multifamily use upon completion of the project.

D. No improvements to non-LMI units will be eligible for Multifamily Loan Program funds.

E. Existing properties must have existing HUD Section 8 Housing Quality Standards (HQS) violations or incipient violations prior to rehabilitation, unless otherwise approved by the state.

PART III. OCCUPANCY AND RENT REQUIREMENTS.

§ 3.1. Occupancy requirements.

The target population for occupancy of multifamily housing funded with Multifamily Loans is low and moderate income persons and families. The percentage of units which must be occupied by low and moderate income persons varies based upon the income level served by the project. A minimum threshold has been set as follows, and may be exceeded at the option of the project sponsor. All occupancy requirements must be met for the full term of the loan.

Project sponsors must select one of three occupancy options at the time of application and must comply with it for the term of the loan:

OPTION 1:

A minimum of 20% of the units must be reserved for persons households with incomes at 50% or less of the area median income as established by HUD.

OPTION 2:

A minimum of 40% of the units must be reserved for ~~persons households~~ with incomes at 60% or less of the area median income as established by HUD.

OPTION 3:

A minimum of 80% of the units must be reserved for ~~persons households~~ with incomes at 80% or less of the area median income as established by HUD.

§ 3.2. Rent requirements.

The owner must inform the [state *Commonwealth*] of any changes in rents charged within the project. Annual rent increases may not exceed the percentage increase in the ~~Maximum Rent Schedule published by the department as appropriate to the unit size area median income as published annually by HUD~~. State approval is required in advance if proposed rents on low- and moderate-income units exceed rent limits as set by the department the percentage increase in area median income .

PART IV. DISTRIBUTION OF FUNDS.

§ 4.1. Distribution of funds.

Funds will be distributed annually through a competitive process. Any funds remaining after the competition will be made available first come/first serve. Funds will be awarded to at least one rehabilitation and one new construction project. Funding allocation priorities will be given first to new construction, rehabilitation, and acquisition and rehabilitation projects. Second priority will be given to acquisition-only projects on a competitive basis among those projects which have corrected application deficiencies and are judged ready for underwriting.

A. Maximum funding for project sponsor.

There will be a limitation of \$1 million per project [sponsor] in any single funding cycle. Funds will only be available for lower-income housing units. Energy grant funds will only be available for rehabilitation projects and will be limited to 15% of the total ~~rehabilitation improvement~~ cost of low-income units. [Any applicant may submit more than one project; however, no single project sponsor may receive funding which totals more than 20% of the available funds for this program in any fiscal year.]

B. Fund set-aside for project sponsor.

1. Loan and Energy Grant funds will be made available initially on a competitive basis to eligible project sponsors in accordance with the selection/evaluation criteria established in § ~~8.1~~ 7.1 dis 10.1: of these guidelines.

2. Upon selection, a Loan or Energy Grant Set-Aside will be made to a project sponsor for up to six months. This will allow time to complete project development activities including finalizing other financing and assistance from other local, state or federal housing programs. Extensions may be granted by [the state *DHCD*], if appropriate.

3. A project sponsor's Set-Aside will be divided into two portions: The unrestricted portion will be provided from the state's General Fund Appropriation and may be used for any eligible improvements, as defined in [§ ~~1.1~~ § 2.2]. The eligible energy-related portion will be provided from the state's Oil Overcharge Expenditure Trust Fund and may be used only for eligible energy-related improvements, as defined [in § ~~1.1~~] by [the department *DHCD*].

[C. Term of project sponsor set asides.

Set asides for project sponsors will be in effect for six months. If unallocated funds are available or are recaptured after six months, the state may make funds available on a first come, first serve basis to other eligible applicants.]

PART V. LOAN TERMS AND CONDITIONS.

§ 5.1. Loan terms and conditions.

A. Interest rate.

The average interest rate for loans funded from the General Fund Appropriation is 6.0%. Loans may be made at rates as low as 2.0% and as high as 8.0%, dependent upon the needs of the project. Final determination of the interest rate will be made by VHDA in the underwriting.

Eligible energy improvements which are funded from the Oil Overcharge Expenditure Funds will be provided as a grant.

B. Term.

The maximum term for loans will be 15 years. Longer amortization schedules not to exceed 30 years may be considered. All repayments are due in 15 years. Grants are subject to repayment if the project sponsor violates program requirements. Repayment must be made in full if such violation occurs within ~~three~~ two years from the date the grant is closed. Beginning in the ~~fourth~~ third year, this repayment obligation is reduced at the rate of 25% per year. Notwithstanding the above, as of July 1, 1998, any remaining grant repayment obligations shall be forgiven.

C. Deferrals.

Deferrals of principal payments or of both principal and interest payments may be allowed for up to five years. The [state *Commonwealth*] shall determine the feasibility

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of any payment deferral or amortization deferral for each project. The use of such options may require higher interest rates to be paid during the loan repayment period.

D. Instruments for loan security.

1. General requirements. The borrower(s) must be the sole owner(s) of the property. A title opinion and title insurance will be required for all loans unless otherwise approved by the state. Hazard insurance is required in such terms and amounts as specified by the [*state Commonwealth*].

2. Lien requirements. A lien shall be recorded on every property for which a program loan is made. The lien shall be divided into the amount securing the General Fund portion of the loan and the amount securing Oil Overcharge funds. The General Fund portion shall remain in effect for the term of the loan. Starting the ~~fourth~~ *third* year, the Oil Overcharge portion of the lien will be forgiven at a rate of 25% per year, provided program requirements continue to be met. In no event shall the Oil Overcharge lien extend beyond July 1, 1998.

The [*state Commonwealth*] will accept a subordinate position only to an existing mortgage or where the primary financing is being provided from another source.

E. Loan underwriting criteria.

Specific underwriting criteria which are applicable to these loans have been established by the [*state Commonwealth*]. These will include an evaluation of the site, project design and amenities, the market for the project, the experience and financial capacity of sponsors and contractors, architectural and engineering studies, the value of the project, financial risks and other considerations. Each project will be evaluated to assess the potential cash flow available to pay debt service and operating expenses.

Loan-to-value ratio.

The loan-to-value ratio shall be based on the appraised value of the structure after completion. A loan-to-value ratio of up to 100% will be considered for loans/grants to nonprofit housing sponsors and up to 90% for other sponsors. The [*state Commonwealth*] may permit the ratio to exceed 100% under special circumstances to be considered on a case by case basis. The loan/grant amount may not exceed 100% of cost, as determined by the fund.

F. Loan servicing.

VHDA will close the loans, conduct construction inspections when applicable, disburse proceeds, service the loans and provide ongoing management oversight.

G. Sale or transfer restrictions.

Loans made under this program will be assumable as long as the property use, income requirements, rent requirements, housing conditions and other program requirements are maintained for the term of the loan. An annual review will be made to assure project compliance. Approval by the [*state Commonwealth*] will be required for loans to be assumed.

H. Prepayment of loan.

Prepayment of loans under this program will be prohibited.

PART VI. DISPLACEMENT.

§ 6.1. Displacement.

Projects which result in no or minimal displacement are encouraged. Where displacement is unavoidable, a sponsor's willingness and ability to assist current tenants in finding alternative housing both temporarily during rehabilitation and permanently will be considered in the selection of projects. A project which causes no displacement will be given higher ranking. Other projects will be required to include a description of the assistance (including counseling and financial reimbursement) to be given to displaced persons. Projects providing a greater level of assistance will be given a higher ranking score.

PART VII. EVALUATION CRITERIA.

§ 7.1. Evaluation criteria.

Project sponsors are selected to receive program funding through a competitive funding cycle. Criteria for evaluating and ranking projects are described below:

1. ~~Income level and households served.~~ *Public purpose.* Projects which serve the lowest income groups (see § 3.1) will receive higher ranking priorities. Projects which serve a higher proportion of lower income households than the minimum required shall be given a higher score. *Projects which charge less than the maximum allowable rents will be given a higher score. Sponsors will be required to explain how their project serves public purpose.*

2. Project feasibility. Projects will be evaluated based upon the appropriateness of the project to the population to be served, achievable time frame for accomplishments, realistic project budget, and ~~current operations costs~~ *reasonable operating budget*.

3. Project readiness. Projects will be evaluated on the strength of site control, zoning and displacement issues, completeness of plans and specifications, and commitment of financial sources to meet project costs

4. Leveraging. Projects will be evaluated based on a comparison of the Multifamily Loan Program request to the total development cost for the project.

5. Administrative experience. Projects will be evaluated based upon the qualification and experience of [the Project Sponsor,] the development team, the contractor, and [property] management agent.

* * * * *

Title of Regulation: VR 394-01-104. Congregate Housing Program Guidelines.

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

Effective Date: October 9, 1991.

Summary:

These regulations establish the administrative framework for project sponsor eligibility, operational requirements, distribution of funds, and loan grant terms and conditions.

VR 394-01-104. Congregate Housing Program Guidelines.

PART I.
PURPOSE OF THE PROGRAM.

§ 1.1. Purpose of the program.

Responding to critical housing problems facing the Commonwealth, as documented in the 1987 Annual Report of the Virginia Housing Study Commission, the Governor and the General Assembly established the Virginia Housing Partnership Revolving Loan Fund. The purpose of the fund is to create and increase the availability of decent and affordable housing for low and moderate Virginia residents. The primary purpose of the Congregate Housing Program is to provide decent, affordable housing opportunities and to expand the number of congregated housing units available for special needs population throughout the Commonwealth of Virginia.

PART II.
DEFINITIONS.

§ 2.1. Definitions.

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

"Accessibility improvement" means a modification to a property to make more accessible to individuals with physical impairments.

"Acquisition" means the purchase of real property.

"Applicant" means an incorporated nonprofit, for-profit, or government entity that makes application for funds under the Virginia Housing Partnership Fund.

"Application" is the written request for a loan or grant funding under this program.

"Appraised value" means the monetary worth of property as determined by an appraiser.

"Area median income" means the median income established by HUD for various areas or the state median income, as established by the University of Virginia Center for Public Service.

"Assessed value" is the monetary worth of the facility/property as determined by the real estate assessment office of the local government where the same is located for tax purposes. The applicable assessed value shall be that value in effect as of the application date.

"Borrower" means the individual, for-profit, or nonprofit or government entity that has been approved for funding this program.

"Congregate housing" means a building or facility with a central food preparation and eating area which houses elderly and disabled persons with special needs who must live in a supervised environment, but do not require medical treatment or institutional care.

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

"Disabled person" means an individual who has a physical or mental condition which limits his activities or functions either temporarily or permanently.

"Energy-related improvements" means physical improvements to structures which are being rehabilitated which contribute to fuel cost savings and overall less energy consumption, and which have been so designated by this department.

"Fire protection system" means a system including devices and equipment to detect a fire or actuate an alarm or suppress or control a fire or any combination thereof.

"Fund" means the Housing Partnership Revolving Loan Fund.

"General improvements" means additions, alterations, renovations or repairs made for the purpose of making housing more habitable or more desirable to live in. These improvements must be permanent. Improvements shall not include materials, fixtures, or landscapes of a type or quality which exceed that customarily used in the locality for the properties of the same general type as the property to be improved.

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"Gross income" is the total income from all sources and before taxes or withholdings of all residents, residing in a housing unit, age 18 years or older.

"HQS" means the HUD Section 8 Housing Quality Standard.

"HUD" means the Department of Housing and Urban Development.

"Loan application" means the request for funding for purposes as defined in the program guidelines.

"Loan application date" is the date on which a completed application is received by DHCD.

"Lower-income" means 80 [%] of median income for the service area as established by the U.S. Department of Housing and Urban Development also referred to as LMI.

"Oil Overcharge Expenditure Trust Fund" are United States Department of Energy moneys awarded to the Commonwealth for specific purposes to resolve alleged pricing violations in effect between 1983 and 1981 by crude oil providers.

"Program" means the Congregate Housing Program.

"SHARE" means State Homeless Housing Assistance Resources.

"Site control" means the possession of or authorization to use real property by means of ownership, lease or option.

"VHDA" means the Virginia Housing Development Authority.

"VHPF" means the Virginia Housing Partnership Fund.

PART III. ELIGIBILITY.

§ 3.1. Eligible applicants.

A. Nonprofit organizations incorporated under the laws of the Commonwealth of Virginia;

B. Governmental entities including Public Housing Authorities; or

C. For-profit individuals and organizations.

§ 3.2. Eligible properties.

A. Eligible properties shall provide a central food preparation and eating area even if individual units have kitchen facilities.

B. The Congregate Housing Program is intended to create permanent housing; however, transitional housing

projects are permitted if they are not eligible for DHCD SHARE (homeless) programs.

C. All projects that are required to be licensed by the government must be licensed prior to closing.

§ 3.3. Eligible use of loan funds.

Loan funds may be used for the residential living portion of any project and for other facilities which are an integral part of the entire congregate housing facility. Examples of such facilities include cafeterias and recreational areas that are part of a total residential project. The type of construction activities which are eligible include the following:

A. Purchase Acquisition /rehabilitation.

Loan funds may be used to rehabilitate or acquire and rehabilitate existing properties to appropriately serve special needs population.

B. Rehabilitation.

1. Funds shall be used to bring the property up to the applicable Uniform Statewide Building Code.

2. Energy improvements which exceed the Uniform Statewide Building Code are encouraged. Such improvements should comply with special energy guidelines established by the Commonwealth and may be eligible to be funded with grant funds from the Oil Overcharge Expenditure Trust Fund. Energy grant funds will only be made available for projects involving rehabilitation.

3. Remaining funds may be used for general improvements.

4. Luxury improvements are prohibited.

5. Upon completion of the rehabilitation the property must comply with zoning and other local requirements for planned use.

C. New construction.

Loan funds may also be used for the construction of new congregate housing. Oil Overcharge Expenditure funds may not be used for energy improvements for new construction.

D. Installation of fire protection.

Systems loan funds may be used to install fire protection systems such as sprinkler systems as part of rehabilitation or as a sole activity.

PART IV. TARGET GROUP AND OCCUPANCY REQUIREMENTS.

§ 4.1. Target populations.

A. Target group.

The primary target groups to benefit from loans made under this program will be special needs populations such as the elderly, mentally disabled, physically disabled persons, and substance abusers.

B. Occupancy requirements.

Loans made under this program will be used only to provide residential facilities for low- and moderate-income persons.

A minimum of 50% of the units shall *must* be reserved and occupied by persons with incomes at 50% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher.

PART V. DISTRIBUTION OF FUNDS.

§ 5.1. Loan reservations.

A. Maximum dollar amount per project.

The maximum program loan for developing an individual congregate housing facility is \$250,000. The maximum grant amount shall not exceed 15% of the total rehabilitation costs of low and moderate income units.

B. ~~Loan reservation period.~~ *Set aside period.*

~~Congregate Housing Program loan reservations will be made to project sponsors for an initial six-month period. Each successful applicant will receive a set aside of funds for an initial six-month period.~~ This will allow time to complete project development activities including arranging for other financing and assistance from other local, state or federal housing programs. Extensions may be granted by the Commonwealth DHCD, if applicable, but under no circumstances to exceed six additional months.

PART VI. LOAN AND GRANT TERMS AND CONDITIONS.

§ 6.1. Loan and grant terms and conditions.

A. Interest rate.

The interest rate will be ~~fixed at 2.0%~~ range from 2.0% to 8.0%, except the eligible energy items funded from Oil Overcharge Expenditure Funds, shall be in the form of a grant.

B. Term.

1. *Loan requirements.* The loan term will be 20 years shall not exceed 20 years. A longer amortization

schedule may be permitted (not to exceed 30 years) if necessary for project feasibility. Each will be determined during underwriting at VHDA

2. *Grant requirements.* Grants are subject to repayment if the borrower violates program requirements. Repayment must be made in full if such violation occurs within a period determined by DHCD from the date the grant is closed. This repayment obligation is reduced at the rate of 25% per year based on a schedule established by DHCD. Notwithstanding the above, as of July 1, 1998, any remaining grant repayment obligations shall be forgiven.

C. Instrument for securing loan security.

1. *General requirements.* The borrower(s) shall be *or have written permission from* the sole owner(s) of the property which secures the debt. A title opinion, title insurance, and hazard insurance will be required for all loans.

2. *Lien requirements.* A lien will be recorded on every property for which a program loan is made. The lien shall be divided into the amount securing the general fund portion of the loan, and the amount securing the Oil Overcharge Expenditure Trust Fund portion of the loan grant. The general fund portion shall remain in effect until the loan is fully amortized. The energy related portion of the lien shall be deferred and forgiven as described in § 6.1 B. The state will accept a subordinate position only to an existing mortgage or where the primary rehabilitation financing is being provided from another source.

D. Loan underwriting criteria.

Specific underwriting criteria which are applicable to these loans will be established by DHCD. These will include an evaluation of the site, project design and amenities, the market for the project, the experience and financial capability of the sponsors and contractors, architectural and engineering studies, the value of the project, financial risks and other considerations. Each project will be evaluated to assess its potential cash flow to pay debt service and operating expenses.

Services which will be available to residents must be clearly defined and service providers must be identified. The Commonwealth reserves the right to have outside review of service proposals from appropriate community service agencies.

E. Loan servicing.

VHDA will close the loans, conduct construction inspections, disburse loan proceeds, service the loans and provide ongoing management oversight.

F. Loan to value ratio.

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The loan-to-value ratio shall be based on the appraised value of the structure after repairs and improvements. A loan-to-value ratio of up to 100% will be considered for loans to nonprofit housing sponsors and up to 90% to other sponsors. The Commonwealth may permit a ratio to exceed 100% under special circumstances to be considered on a case-by-case basis. In no case shall the total fund assistance exceed 100% of cost as determined by DHCD.

G. Sale or transfer restrictions.

Loans made under this program shall be assumable as long as the property use, income and occupancy restrictions, housing conditions and other state requirements are maintained by the new owner.

H. Prepayment of loans.

Prepayment of loans under this program is prohibited unless approved by the Commonwealth DHCD.

I. Assumptions.

Loans under the program are assumable as long as the property use, income and occupancy restrictions, housing conditions and other state requirements are maintained by the new owner.

PART VII. EVALUATION CRITERIA.

§ 7.1. Evaluation criteria.

Due to the limited funds available and the expected high demand for these loans, a competitive system will be used in deciding which projects will receive loans. Criteria to rank the applications are described below:

A. Local need, demand and impact *Public purpose.*

The need and demand for affordable housing facilities for low income elderly and disabled persons in each local area will be used as a basis for determining the award of housing loan funds. A local housing market analysis must be provided and will be used to determine demand for such facilities and to indicate the impact on the community for the proposed project. Projects will be evaluated on project need, income level served, and the creation of new beds. A needs assessment must be provided and will be used to determine the demand for the proposed facility and to indicate the impact on the community for the proposed project. Projects that do not demonstrate a need will not be [~~refunded~~ funded]. Projects which serve a higher proportion of lower income households than the minimum required or which create beds shall be *given higher priority.*

B. Income level served.

Projects which serve a higher proportion of lower income households than the minimum required in § 4.1

shall be given higher priority.

C. B. Program design.

Consideration will be given to projects which provide additional services that will meet the special needs of residents. A proposed home for adults will have to meet governmental licensing requirements, while a facility for mentally disabled will need to be approved by the Department of Mental Health, Mental Retardation and Substance Abuse Services. *Program design will examine support services, intake procedures, case management plans, licensure, and fire protection.*

D. C. Leveraging.

The extent to which other federal, local or private below market financing or other housing assistance is included in the project will be a significant factor for evaluating proposals. *Leveraging will be evaluated using documented support from sources other than VHPF programs by commitments, letters of intent, grant agreements or other appropriate documentation. Leveraging will only be applied to the percentage of total development costs related to LMI person served.*

E. D. Administrative capacity.

Project sponsors will be evaluated on development/construction experience, property management experience, congregate care experience, organizational structure, and completeness of application.

F. Sprinkler system.

While DHCD will not require that projects be sprinklered, projects are encouraged to have a sprinkler system or to include installation of sprinklers as part of the project package.

G. E. Project readiness and project feasibility.

The project sponsor must have obtained site control, secured other financial commitments, developed final plans and specifications, and received zoning verification. Projects must be financially feasible and construction must begin within a reasonable period. *Project sponsor will be evaluated by site control, status of zoning, tenant displacement, firmness of financial commitments, developed final plans and specifications, project timing, and project financial feasibility. A minimum source points is required to be considered for funding.*

* * * * *

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

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

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

Effective Date: October 9, 1991.

Summary:

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

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

NOTICE: As provided in § 9-6.14:22 of the Code of Virginia, this regulation is not being republished. The regulation was adopted as it was proposed in 7:12 VA.R. 1771-1773 March 11, 1991.

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 B, it is required to publish all proposed and final regulations.

Title of Regulation: VR 400-02-0008. Rules and Regulations for Virginia Rental Rehabilitation Program.

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

Effective Date: August 20, 1991.

Summary:

The amendments to the rules and regulations for Virginia rental rehabilitation program ("rules and regulations") correct references to the Code of Federal Regulations as some section numbers have been changed due to amendments to the federal regulations and modify certain time limits, funding priorities, funding limits and the method of rental assistance allocations in accordance with such amendments to the federal regulations.

VR 400-02-0008. Rules and Regulations for Virginia Rental Rehabilitation Program.

§ 1. Definitions.

The following words and terms, when used herein, shall have the following meaning, unless the context indicates otherwise.

"Grantee" means any unit of local government that enters into a grant agreement with the authority to administer a rental rehabilitation grant.

"HUD" means the U.S. Department of Housing and Urban Development.

"Section 8" means Section 8 of the United States Housing Act of 1937, as amended, and the applicable rules and regulations promulgated thereunder.

These definitions supplement those contained in 24 CFR 511.2 and other applicable sections of the Code of Federal Regulations. Only those terms not defined in the Code of Federal Regulations or used differently herein have been defined.

§ 2. Purpose and applicability.

These rules and regulations are adopted pursuant to § 36-55.30:3 of the Code of Virginia.

The following rules and regulations are applicable to all grants made by the authority to units of local government with funds allocated to the authority by HUD for the purpose of carrying out local rental rehabilitation programs for the benefit of lower income families and persons. Such grants are referred to herein as "rental rehabilitation grants."

Rental rehabilitation grants may be made to Grantees pursuant to these rules and regulations only if and to the extent that the authority has received from HUD grant funds available therefor.

These rules and regulations supplement and clarify rather than supercede federal program requirements. The authority and all local grantees are fully bound by the applicable requirements of 24 CFR Part 511, as well as governing federal and state laws in the administration and

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use of funds received from HUD under the federal Rental Rehabilitation Program.

Notwithstanding anything to the contrary herein, the Executive Director is authorized with respect to any rental rehabilitation grant to waive or modify any provisions herein where deemed appropriate by him for good cause, to the extent not inconsistent with the Act and any applicable federal regulations.

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 grantee under the agreements and documents executed in connection with a rental rehabilitation grant.

The rules and regulations set forth herein are intended to provide a general description of the authority's requirements and are not intended to include all actions involved or required in the administration of grants under the Virginia Rental Rehabilitation 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 with respect to the Virginia Rental Rehabilitation Program.

§ 3. Program eligibility.

A. Eligible localities.

The authority will accept applications for rental rehabilitation grants from any city, town or county determined by HUD to be eligible for participation in the Virginia Rental Rehabilitation Program. The authority will maintain a current listing of eligible local governments.

B. Eligible neighborhoods.

Applicants must document that each neighborhood in which rental rehabilitation grants are used meets the following two conditions:

1. Neighborhood income level. The median household income in the neighborhood must be at or below 80% of the median income for the Metropolitan Statistical Area (MSA) in which it is located, or, in the case of a neighborhood not within a MSA, at or below 80% of the median income for the state's nonmetropolitan areas.

2. Rent stability/affordability. Rents in the neighborhood must be stable and generally affordable to lower income persons. An applicant must document rent stability/affordability in one of the following three ways:

a. Rent trends. An applicant may document that,

according to the U.S. Census, the increase in average contract rent in the neighborhood between 1970 and 1980 was equal to or less than the increase in average contract rent in the housing market area;

b. Current rent survey. An applicant may survey current neighborhood rents to document that rents are generally at or below the Section 8 Fair Market Rent limits for existing housing; or

c. Other evidence. An applicant may document that, according to the 1980 U. S. Census, the median gross rent in the neighborhood was at or below the Section 8 Fair Market Rent limit for an existing two-bedroom unit that was applicable for the housing market area in April, 1980, and provide some type of evidence that the neighborhood housing market has been stable since 1980 (e.g., assessed property values or building permit activity have not increased more rapidly than in the housing market area as a whole).

C. Eligible projects.

Rental rehabilitation grants may only be used to rehabilitate projects meeting the requirements of 24 CFR 511.10(e) 24 CFR 511.11 .

§ 4. Allocation of funds.

A. Types of allocations.

The authority will accept the following two types of applications from eligible local governments for rental rehabilitation grants:

1. General allocations. The authority will make allocations of funds to local governments on a first-come, first-served basis for use in carrying out locally-designed rental rehabilitation programs. The following conditions will apply:

a. Each local allocation will be limited to a specific dollar amount.

b. Once a local government has committed 80% of its funds to specific projects, it will be eligible to apply for an additional general allocation.

c. An initial allocation to a grantee will expire ~~12 months~~ on a date determined by the authority which shall be no less than six months and no more than 18 months after the date the authority enters into a grant agreement with the grantee with respect to such allocation; provided, however, that the authority may, in its discretion, extend the term of an allocation one or more times for a period not to exceed 12 months for each such extension.

d. Upon the expiration of an allocation, an

uncommitted grant funds will be recaptured.

e. The authority will reserve the right to recapture monies from an additional general allocation prior to its expiration, if necessary, due to poor local performance and the need to commit state program funds in a timely manner.

2. Funding for specific projects. The authority will fund, on a first-come, first-served basis, applications submitted by eligible local governments for specific projects. The following conditions will apply:

a. Total funding, including any prior general or project allocations, will be limited to a specific dollar amount.

b. A locality with an uncommitted general allocation will be expected to commit these funds to the project prior to requesting additional monies.

The funding limit for specific projects will be lifted only in the event that state grant monies are not being committed in a timely manner.

B. Application procedures.

The authority shall, from time to time, give notice of funds availability to eligible units of local government throughout the Commonwealth. Such notice [~~will~~] may include the applicable funding limits and a timetable for the submission and review of applications for each type of funds allocation.

Specific application requirements and review procedures will be provided in application packets and through such workshops/training sessions as the authority deems appropriate. Applications for grant funds will be expected to include the following types of information:

1. General allocations. Applications for general allocations will include an identification and description of program neighborhoods; the locality's method of identifying and selecting projects; a description of local program operating procedures; a description of steps to be taken to ensure adequate maintenance and operation of projects receiving rental rehabilitation funds; a description of steps to be taken to encourage the use of minority and women-owned businesses; a description of the anticipated form of assistance to be provided to property owners and the means by which the amount of assistance will be determined; an indication of the anticipated source of matching funds; a description of any assistance to be provided to property owners in obtaining matching funds; an affirmative marketing plan (see § 5.I.2.); an agreement to comply with all federal and state program requirements; and other information as requested by the authority in the application packet.

2. Funding for specific projects. An application for

funding for a specific project will include information concerning the project's conformance with neighborhood standards; a description of local program operating procedures; a description of steps to be taken to ensure adequate project maintenance and operation; a description of steps to be taken to encourage the use of minority and women-owned businesses; a description of the project's financing package; an affirmative marketing plan; information concerning expected displacement/relocation of lower income persons; an agreement to comply with all federal and state program requirements; and other information as requested by the authority in the application packet.

3. Requests for increases in allocations. After receiving an allocation of funds under the Virginia Rental Rehabilitation Program, a grantee may request an increase in such allocation by applying therefor on such form or forms as the authority shall provide.

C. Grant agreement.

Upon the approval of an application for funding, the authority will enter into a grant agreement with the local government stating the terms and conditions under which funds will be provided.

§ 5. Program requirements.

A. Lower income benefit.

Each grantee must use at least 70% of its rental rehabilitation grant to benefit lower income families in accordance with ~~24 CFR 511.10(a)(4)~~ *24 CFR 511.10(a)(2)*. This benefit standard must be maintained by each grantee in its program at all times unless waived by the authority. A waiver will only be approved when such a waiver will not prevent the authority from achieving an overall 70% benefit standard in the Virginia Rental Rehabilitation Program.

B. Family benefit.

Each grantee must use at least 70% of its rental rehabilitation grant to rehabilitate units containing two or more bedrooms in accordance with ~~24 CFR 511.10(k)~~ *24 CFR 511.10(b)*. This standard must be maintained by each grantee in its program at all times unless waived by the authority. A waiver will only be approved when such a waiver will not prevent the authority from achieving an overall 70% standard in the Virginia Rental Rehabilitation Program, except in cases where the authority has applied for and received from HUD a special waiver from the 70% standard.

C. Funding priorities.

Each grantee must include the following priorities in its method for selecting projects to receive rental rehabilitation funds.

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1. Units occupied by very low income families. Each grantee must give funding priority to projects which contain substandard units which, prior to rehabilitation, are occupied by very low income families. This priority may include unoccupied units ~~if~~ *if the units could be expected to be occupied by very low income families but for the units' substandard condition.*

a. The units could be expected to be occupied by very low income families but for the units' substandard condition; and

b. The grantee agrees to assign Section 8 certificates and/or vouchers for at least 70% of the rehabilitated units in order to enable it to be occupied by very low income families.

2. Efficient use of grant funds. Each grantee must give funding priority to projects which require a minimum percentage of rental rehabilitation grant subsidy.

Proposed projects meeting these priorities, which are financially feasible and which meet all other program requirements, must be selected for funding prior to projects which do not meet the priorities. In cases where these priorities conflict, the first priority must be given precedence by grantees.

D. Adequate maintenance and operation of rehabilitated units.

Each grantee must adopt one or more of the following measures to ensure adequate maintenance and operation of projects receiving rental rehabilitation funds:

1. Establishment of minimum equity requirements for investors;

2. Assignment of priority to projects in which private investors and lenders are taking a long-term financial risk in project success;

3. Restriction of funding to investors with a satisfactory record of maintaining and operating rental housing (the applicant must have standards and procedures for assessing an investor's record); or

4. Establishment of other reasonable standards and/or procedures for ensuring adequate maintenance and operation of rehabilitated units.

E. Project funding limits.

Each grantee must comply with the maximum project funding limits set by ~~24 CFR 511.10(e)~~ *24 CFR 511.11(e)*.

The authority will seek a waiver from HUD of the \$5,000 average per unit funding limit for a specific project at the request of a grantee if the grantee can document a need for such a waiver in accordance with ~~24 CFR~~

~~511.10(e)(2)~~.

F. Minimum level of rehabilitation.

A grantee may establish a minimum level of rehabilitation to be required for participation in its rental rehabilitation program in excess of that established in ~~24 CFR 511.10(e)~~ *24 CFR 511.10(d)*.

G. Eligible rehabilitation costs.

A grantee may use a rental rehabilitation grant only to cover costs permitted under ~~24 CFR 511.10(g)~~ *24 CFR 511.10(f)*. No more than 20% of the rental rehabilitation funds assigned to a project may be used to make relocation payments to tenants who are displaced by rehabilitation activity.

H. Displacement and tenant assistance.

A grantee must provide any lower income family displaced from a project assisted by a rental rehabilitation grant with financial and advisory assistance as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 USC 4601. A family will be determined to be displaced in accordance with the definitions contained in ~~24 CFR 511.10(h)(1)~~ *24 CFR 511.14*. No tenant will be considered displaced if the tenant has been offered a decent, safe and sanitary dwelling unit in the project at an affordable rent.

I. Affirmative marketing. 00N2 Each grantee must ensure the affirmative marketing of units in rehabilitated projects *with five or more residential units* for a period of ~~seven~~ *10* years beginning on the date on which all the units in a project are completed, in accordance with ~~24 CFR 511.10(i)(2)~~ *24 CFR 511.13(b)*. "Affirmative marketing" is defined as adherence to federal, state and local fair housing laws, and positive efforts to ensure that persons of similar income levels in the same housing market area are made aware of a housing project and its benefits regardless of race, creed, religion, national origin, sex or handicap. All fair housing laws must be scrupulously observed by those who participate in the Virginia rental rehabilitation program. Failure to comply with affirmative marketing requirements will subject the grantee and/or property owner to sanctions.

In order to meet its affirmative marketing responsibilities, each grantee must comply with, or ensure property owner compliance with, the following requirements and procedures:

1. General requirement. In conjunction with the marketing of all rehabilitated units, except for units occupied by families receiving Section 8 certificates or vouchers, the following five specific requirements must be met:

a. All advertising, brochures, leaflets and other printed material must include the Equal Housing

Opportunity logo and the slogan or statement, and all advertising depicting persons must depict persons of majority and minority groups, including both sexes;

b. The Equal Housing Opportunity slogan, "Equal Housing Opportunity," utilized in the newspaper classified advertisements should be at least eight point boldface type, and display advertising must include the Equal Housing logo and slogan;

c. If other logotypes are used in the advertisement, then the Equal Opportunity logotype should be of a size equal to the largest of other logotypes;

d. All signs, off-site and on-site, must prominently display the logo and slogan, or the statement in a size that would not be smaller than the largest letters used on the sign; and

e. The logo and slogan, or the statement and the HUD Equal Housing Opportunity Poster (HUD Form 928.1 dated 7-75), must be prominently displayed in the on-site office or wherever applications are being taken.

2. Affirmative marketing plan. Any local government making application to the authority for a rental rehabilitation grant must submit as part of its application, on a form supplied by the authority, a local affirmative marketing plan covering the leasing of all rehabilitated units, except for those occupied by families receiving Section 8 certificates or vouchers. Such plan must include the following information for each neighborhood in which the local government proposes to operate a rental rehabilitation program:

a. An identification of the predominant racial/ethnic composition of the neighborhood;

b. An identification of the group(s) in the housing market area that are least likely to apply for housing in the neighborhood because of its location and other factors without special outreach efforts;

c. An identification of the types of advertising and outreach procedures (e.g., use of community contacts) which participating property owners may use to meet their affirmative marketing responsibilities;

d. A description of the information to be provided to participating property owners, their staff or managing agents to enable them to carry out their affirmative marketing and fair housing responsibilities; and

e. The anticipated results of the local affirmative marketing plan (i.e., the percent of vacancies expected to be filled by the identified target group(s)).

3. Affirmative marketing agreements. Any property owner applying for rental rehabilitation funds from a grantee must submit to such grantee a description of its proposed affirmative marketing procedures which must conform with the grantee's affirmative marketing plan. This description must be in a form prescribed by the grantee, and must include the form(s) of advertising and community contacts to be used by the owner or the owner's managing agent in publicizing all vacancies, except for units rented to families receiving Section 8 certificates or vouchers, in order to attract the group(s) identified by the grantee as being least likely to apply.

Upon approval of proposed efforts, owners must enter into a compliance agreement with the grantee which must include:

a. An agreement to comply with federal, state and local fair housing laws;

b. An agreement to carry out specified affirmative marketing procedures;

c. An agreement to maintain records on the racial/ethnic and gender characteristics of tenants occupying units before and after rehabilitation, records on tenants moving from and (initially after rehabilitation) into rehabilitated units, records on applications for tenancy within 90 days following completion of rehabilitation, data on the race and ethnicity of displaced households and, if available, the address of the housing units to which each displaced household relocated, and information documenting affirmative marketing efforts in a form specified by the grantee;

d. An agreement to report such information to the grantee on an annual basis; and

e. Sanctions to be imposed by the grantee in the event of noncompliance by the property owner.

Such agreement must be effective for a period of seven years beginning on the date on which the rehabilitation of the units in the projects is completed.

4. Grantee requirements. Each grantee shall be responsible for:

a. Informing property owners' staff and owners' managing agents of their responsibility to comply with federal, state and local fair housing laws;

b. Informing property owners of the affirmative marketing requirements of the Virginia Rental Rehabilitation Program, as well as the provisions of the grantee's affirmative marketing plan;

c. Reviewing and approving affirmative marketing

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procedures proposed by property owners;

d. Entering into legally binding affirmative marketing agreements with property owners;

e. Monitoring compliance by property owners with affirmative marketing agreements and imposing prescribed sanctions as necessary; and

f. Collecting, and reporting to the authority on an annual basis, information regarding the racial/ethnic and gender characteristics of tenants occupying units before and after rehabilitation, information on tenants moving from and (initially after rehabilitation) into rehabilitated units, records on applications for tenancy within 90 days following completion of rehabilitation, data on the race and ethnicity of displaced households and, if available, the address of the housing units to which each displaced household relocated, and information documenting property owner compliance with affirmative marketing requirements (e.g., records of all advertisements, notices and marketing information).

J. Use of minority and women's business enterprises.

Each grantee must encourage the use of minority and women's business enterprises in connection with activities funded with rental rehabilitation grant monies in accordance with ~~24 CFR 511.10(m)(1)(v)~~ 24 CFR 511.13 . Such efforts must include the following activities.

1. Targets. Upon entering into a grant agreement with the authority, each grantee must establish local dollar or other measurable targets based on factors that the grantee regards as appropriate and related to the purpose of its rental rehabilitation program. A copy of such targets must be forwarded to the authority prior to the drawing down of any grant funds.

2. List of businesses. Upon entering into a grant agreement with the authority, each grantee must prepare a list of minority and women's business enterprises which are potential suppliers or rehabilitation services and materials to property owners receiving grant assistance. A grantee should make use of the services of the Virginia Office of Minority Business Enterprise and appropriate federal agencies, as needed, in preparing such a list. Each grantee must forward a copy of the list to the authority prior to drawing down any grant funds.

3. Bid solicitation. Each grantee must make reasonable efforts to include qualified minority and women's business enterprises on bid solicitation lists and to ensure that such businesses are solicited whenever they are potential sources of services and materials.

4. Negotiated contracts. Whenever competitive bidding is not required of a property owner, the grantee must

provide the property owner with a list of minority and women's business enterprises which are potential sources of services or materials.

5. Subcontracts. Each grantee must ensure that property owners require that all subcontractors be provided with a list of minority and women's businesses which are potential suppliers of materials or services.

6. Records. Each grantee must keep records of the number and dollar amount of participation by minority and women's business enterprises, including subcontractors and owners of rental properties, in connection with activities funded with rental rehabilitation grant monies.

K. Use of local area and minority contractors, suppliers and employees.

Each grantee must encourage the use of local area and minority contractors, suppliers and employees in connection with activities funded with rental rehabilitation grant monies in accordance with ~~24 CFR 511.10(m)(1)(v)~~ 24 CFR 511.13 . Such activities must include the development of a plan that includes the following elements:

1. Area definition. The plan must include a definition of the local area in which residents and businesses are the intended beneficiaries of rental rehabilitation activities (usually the applicant locality or, in the case of a town or small city, the locality plus the adjacent county).

2. Procedures. The plan must include procedures to be followed to encourage the use of local area and minority contractors, suppliers and employees in connection with activities funded with rental rehabilitation grant monies.

A copy of this plan (such federally required plans are often referred to as "Section 3 Plans") must be forwarded to the authority prior to the drawing down of any grant funds.

L. Architectural barriers to the handicapped.

Each grantee must ensure that, in the case of projects involving the rehabilitation of 25 or more units where the cost of rehabilitation is greater than or equal to 75% of the value of the project after rehabilitation, the owner improves any unit occupied by a handicapped person prior to rehabilitation in a manner which removes architectural barriers in accordance with the requirements of ~~24 CFR 511.10(m)(1)(ii)~~ 24 CFR 511.16(c) .

M. Age discrimination in employment.

Each grantee must ensure that property owners do not discriminate against employees based on age, nor thø

property owners use contractors who so discriminate, in accordance with ~~24 CFR 511.10(m)(1)(ii)~~ ~~24 CFR 511.13(a)(2)~~.

N. Labor standards.

Each grantee must ensure that all laborers and mechanics, except laborers and mechanics employed by a local government acting as the principal contractor on the project, employed in the rehabilitation of a project receiving rental rehabilitation grant assistance that contains 12 or more units, are paid at the prevailing wage rates set under the Davis Bacon Act, 40 USC 276a, and that contracts involving their employment are subject to the provisions of the Contract Work Hours and Safety Standards Act, 40 USC 327, in accordance with the requirements of ~~24 CFR 511.11(a)~~ ~~24 CFR 511.16(a)~~.

O. Environmental and historic reviews.

Each grantee must comply with the environmental and historic review requirements contained in 24 CFR Part 58. Grantees must submit requests for release of funds to the authority for review. [~~VHDA~~ *The authority*] will forward its recommendation, together with the request, the environmental certification and the objections, to HUD. All approvals for release of funds will be made by HUD.

P. Conflicts of interest.

Each grantee must comply with the conflict of interest requirements contained in ~~24 CFR 511.11(e)~~ ~~24 CFR 511.12~~.

Q. Lead-based paint.

Each grantee must ensure that any property owner receiving rental rehabilitation grant assistance takes steps to remove the hazards of lead-based paint in accordance with the requirements of 24 CFR Part 35.

R. Use of debarred, suspended or ineligible contractors.

Each grantee must comply with the requirements of 24 CFR Part 24 in the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors with rental rehabilitation grant funds.

S. Legal agreement with property owner.

Each grantee must execute an agreement with the owner of a property receiving rental rehabilitation assistance, including a cooperative or mutual housing association, under which the owner:

1. Agrees, for a period of at least 10 years beginning on the date on which the rehabilitation of the units in the project is completed, not to:

- a. Discriminate against prospective tenants on the basis of their receipt of, or eligibility for, housing

assistance under any federal, state or local housing assistance program;

- b. Discriminate against prospective tenants on the basis that the tenants have a minor child or children who will be residing with them, except for housing projects for elderly persons; and

- c. Convert the units to condominium ownership or any form of ineligible cooperative ownership.

2. Agrees, for a period of seven ~~10~~ years beginning on the date on which the rehabilitation of the units in the project is completed, to:

- a. Comply with federal, state or local fair housing laws;

- b. Carry out specified affirmative marketing procedures; and

- c. Maintain records on the racial/ethnic and gender characteristics of tenants occupying units before and after rehabilitation, records on tenants moving from and (initially after rehabilitation) into rehabilitated units, records on applications for tenancy within 90 days following completion of rehabilitation, data on the race and ethnicity of displaced households and, if available, the address of the housing units to which each displaced household relocated, and information documenting affirmative marketing efforts in a form specified by the grantee, and to report such information to the grantee on an annual basis (see § 5 I 3).

Such agreement must contain sanctions to be imposed by the grantee in the event of noncompliance by the property owner. Guidelines are contained in ~~24 CFR 511.10(i)~~ and ~~(j)~~ ~~24 CFR 511.11(d)(1)(ii)~~ and ~~(iii)~~.

§ 6. Grant administration.

A. Responsibility for grant administration.

Grantees are responsible for ensuring that rental rehabilitation grants are administered in accordance with the requirements of these rules and regulations, all applicable sections of 24 CFR Part 511 and other applicable state and federal laws.

B. Records to be maintained.

Each grantee must maintain records specified by the authority that clearly document its performance under each requirement of these rules and regulations. Required records must be retained for a period of three years from the date of final close-out of the rental rehabilitation grant. Public disclosure of records and documents must comply with the requirements of ~~24 CFR 511.72~~ ~~24 CFR 511.73(c)~~.

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C. Grant management and audit.

Each grantee must comply with the policies, guidelines and requirements of 24 CFR 511.11(c) in the acceptance and use of rental rehabilitation grant funds. Access to grantee records and files must be provided in accordance with the requirements of 24 CFR 511.73 24 CFR 511.74 . The financial management systems used by grantees must conform to the requirements of 24 CFR 511.74 24 CFR 511.75 .

D. Disbursement of funds/cash management systems.

Grant monies will be disbursed to grantees for payment of eligible program costs in accordance with the following procedures:

1. Project accounts. Grantees must identify to the authority each project for which they wish to provide rental rehabilitation funds and the amount of grant monies to be committed to each project. Upon receipt of all necessary project information, the authority will establish a project account with HUD.

2. Disbursement of funds. Grant monies will be disbursed on a project-by-project basis by electronic funds transfer to a designated depository institution in accordance with HUD procedures and guidelines. The authority will designate a depository institution and make all requests to HUD for funds transfer, unless such authority is formally delegated to a grantee by the authority. Grantees will notify the authority of the need for grant funds to pay eligible rehabilitation costs. The authority will in turn request HUD to transfer funds to the authority. Upon receipt of such monies, the authority will disburse grant funds to the grantee or, at the authority's option, the authority may, prior to receiving the grant funds requested from HUD, disburse to the grantee its own funds in an amount equal to such requested grant funds and reimburse itself with the HUD funds upon receipt thereof.

3. Conditions for requesting draw-downs of funds. Grantees must not request draw-downs of funds until such funds are actually needed for payment of eligible costs. A request for funds for payment of a contractor may only be made after the work has been inspected and found to be satisfactory. Grant funds must be drawn down at no greater proportion than the amount of rental rehabilitation funds in the project. For example, if on a \$10,000 rehabilitation project, \$5,000 of rental rehabilitation grant funds were provided and the construction was 50% complete, no more than \$2,500 in rental rehabilitation grant funds could be drawn down for the project. Disbursement of any grant funds is conditioned on the submission of satisfactory information by the grantee about the project and compliance with other procedures established by the authority and HUD.

§ 7. Allocation and administration of § 8 certificates and vouchers.

A. Allocation of rental assistance.

Subject to the availability (as determined by HUD) of contract and budget authority for certificates or vouchers under Section 8, the Authority will assign contract authority for up to one voucher or certificate for use in the Virginia Rental Rehabilitation Program for each \$5,000 of rental rehabilitation grant monies allocated to a grantee. Such rental assistance must be used in accordance with 24 CFR 511.41(a) and other governing HUD rules, regulations, procedures and requirements.

Annually the authority will determine how many housing vouchers or certificates will be needed for in-place tenants who will require assistance for the next calendar year based upon an assessment of all pending rental rehabilitation program projects. This information along with an estimate of the grantee's turnover will be used to determine the minimum allocation of housing vouchers and certificates to be made to grantees under the VHDA Section 8 rental assistance program. The authority will then allocate at least the minimum allocation of housing vouchers and certificates to the grantees pending their availability from HUD. Those grantees who participate directly with HUD in the Section 8 program will receive their housing vouchers and certificates directly from HUD.

B. Administration of rental assistance.

The authority will enter into Annual Contributions Contracts with HUD to administer contract authority for Section 8 certificates or vouchers allocated to Virginia for use in the Virginia Rental Rehabilitation Program. The authority will administer such contract authority in accordance with the applicable rules and regulations of the authority .

§ 8. Annual performance review.

A. Performance elements.

The authority will review the performance of all grantees in carrying out their responsibilities under these rules and regulations and under all the applicable requirements of 24 CFR Part 511 at least ~~annually~~ *every two years* . These reviews will analyze whether the grantee has:

1. Carried out its activities in a timely manner, including the commitment of rental rehabilitation grant funds to specific projects;
2. Has carried out its activities in accordance with all state and federal requirements; and
3. Has a continuing capacity to carry out its activities in a timely manner.

B. Grantee reports to the authority.

Each grantee must submit the following reports to the authority at such times and [*in*] such formats as the authority may prescribe:

1. Management reports. Each grantee must submit reports to the authority on the management of its rental rehabilitation grant as requested by the authority.

2. Annual performance report. Each grantee must submit an annual performance report to the authority at such times as the authority may prescribe. This report must contain such information and be in such form as prescribed by the authority, and will include at least the elements prescribed in 24 CFR 511.81(2).

C. Remedial actions and sanctions.

In the event of failure by a grantee to carry out its responsibilities in administering its rental rehabilitation grant, the authority will seek remedial actions on the part of the grantee and, if necessary, impose sanctions including the recapture of uncommitted rental rehabilitation grant funds and barring the local government from future participation in the Virginia Rental Rehabilitation Program.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Mental Health, Mental Retardation and Substance Abuse Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 470-02-01. Standards for Interdepartmental Regulation of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 63.1-217, 66-10, and 66-24 of the Code of Virginia.

Effective Date: October 9, 1991.

Summary:

Under the current definitions and exceptions in the Code of Virginia the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and

Family Services are responsible for the regulation of public and private residential facilities providing care or treatment to children. The regulation is designed to assure that adequate care, treatment, and education are provided by residential facilities for children.

The revisions amend the requirements of § 4.3 of the Interdepartmental Standards to rectify dissonance with recent revisions to § 27.97 et seq. of the Code of Virginia. Sections 27.97 et seq. allow local governing body adoption of the "Code." Localities which adopt the code are responsible for its enforcement. The Office of the State Fire Marshal is responsible for inspections and enforcement in localities which do not adopt the code. Many localities have adopted the "Virginia Statewide Fire Prevention Code" and local fire authorities are inspecting some facilities previously inspected by the Office of the State Fire Marshal. The Office of the State Fire Marshal is conducting inspections of some facilities previously inspected by local fire authorities.

The revisions also amend the requirements of § 5.22 of the Interdepartmental Standards to rectify dissonance with recent revisions to § 63.1-204 of the Code of Virginia. Revisions to § 63.1-204 establish more flexible admissions requirements for temporary care facilities regulated by the Department of Social Services. The revisions provide temporary care facilities eight hours following the child's arrival at the facility to obtain and document verbal approval for placement from the legal guardian. The revisions also provide temporary care facilities 24 hours following the child's arrival or until the end of the next business day after the child's arrival, whichever is later, to obtain a written placement agreement signed by the legal guardian and facility representative.

NOTICE: Please refer to the Department of Social Services in the Final Regulations section of this issue of the Virginia Register of Regulations for the publication of "Standards for Interdepartmental Regulations of Residential Facilities for Children."

BOARD OF NURSING HOME ADMINISTRATORS

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

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

Effective Date: October 9, 1991.

Summary:

The regulations incorporate emergency regulations on endorsement that were effective December 5, 1990, and revise the continuing education and

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administrator-in-training sections for ease of compliance and clarity.

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

PART I. GENERAL PROVISIONS.

Article 1. Definitions.

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

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

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

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

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

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

"Department" means the Department of Health Professions.

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

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

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

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

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

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

"Nursing home" means any public or private facility

required to be licensed as a nursing home under the provisions of Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 of the Code of Virginia and the regulations of the Board of Health.

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

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

Article 2. Legal Base.

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

Title 54.1:

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

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

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

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

of the Code of Virginia.

Article 3. Purpose.

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

Article 4. Applicability.

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

Article 5. Public Participation Guidelines.

§ 1.5. Mailing list.

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

1. Notice of intent to promulgate regulations:

2. Notice of public hearings or informational proceedings, the subject of which is proposed or existing regulations; and

3. Final regulations when adopted.

§ 1.6. Additions and deletions to mailing list.

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

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

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

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

§ 1.7. Notice of intent.

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

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

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

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

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

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

C. The proceeding may be held separately or in conjunction with other informational proceedings.

§ 1.9. Petition for rulemaking.

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

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

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

§ 1.10. Notice of formulation and adoption.

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

§ 1.11. Advisory committees.

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

PART II. OPERATIONAL RESPONSIBILITIES.

Article 1. Posting of License and Licensure.

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

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

Article 2. Records.

§ 2.3. Accuracy of information.

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

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

PART III. FEES.

Article 1. Initial Fees.

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

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- 1. Application for A.I.T. program \$150
- 2. Preceptor application fee \$100
- 3. Application fee for license to practice nursing home administration \$125
- 4. Fee to sit for state examination \$100
- 5. Fee to sit for national examination \$150
- 6. Verification of licensure requests from other states \$ 50

Article 2. Renewal Fees.

§ 3.2. The following annual fees shall be paid as applicable for license renewal [*see § 4.1*]:

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

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

Preceptor renewal [payable by March 31] \$ 50

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

Article 3. Reinstatement Fees.

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

Nursing home administrator reinstatement \$200

Preceptor reinstatement \$ 50

Article 4. Other Fees.

§ 3.4. Duplicates.

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

Duplicate license \$ 25

Duplicate wall certificates \$ 50

§ 3.5. Other.

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

Fees shall not be refunded once submitted.

PART IV. RENEWALS.

Article 1. Expiration Dates.

§ 4.1. The following shall expire on [*December 31, 1991. The license will be renewed until March 31, 1993. Each such license or approval renewed by December 31, 1991, shall expire on March 31, 1993. Effective March 31, 1993, licenses shall be renewed on*] March 31 of each calendar year:

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

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

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

Article 2. Renewal and Reinstatement.

§ 4.4. [*Renewal.*]

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

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

§ 4.5. [*Reinstatement.*]

[*A. Reinstatement up to three years following expiration.*]

[~~A licensee or preceptor~~ *The board in its discretion*] may reinstate [~~his a nursing home administrator~~] license or *preceptor* approval within three years of its expiration date [~~through the following process~~]. *The licensee or preceptor shall do the following* :

- 1. Apply for reinstatement (*licensee and preceptor*) ;
- 2. Submit the applicable fee prescribed in § 3.3 (*licensee and preceptor*) ;

[3. Submit the annual renewal fee prescribed in § 3.2 for each year of expiration (licensee and preceptor);]

[~~3.~~ 4.] Present evidence of attendance at 20 classroom hours per year of continuing education for each year of expiration OR take and pass the national examination (licensee only); and

[4. 5.] Take and pass the state examination (licensee only) .

[§ 4.6. B. Reinstatement after three years following expiration.]

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

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

PART V. REQUIREMENTS FOR LICENSURE.

Article 1. Qualifications.

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

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

OR

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

b. Applicant has received a passing grade on the state examination and the national examination.

OR

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

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

b. Has practiced nursing home administration for one year or [~~has met the requirements~~ complies with all regulations] of the Board [of Nursing Home Administrators governing nursing home administration licensure in Virginia] or has [education and experience] equivalent [to] qualifications [~~acceptable to the board~~ required by these regulations] and has provided [sufficient] written evidence of those qualifications at the time of application for licensure; and

c. Has successfully completed the state examination.

Article 2. Application Process.

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

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

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

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

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

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

§ 5.5. Waiver of time limits.

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

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Article 3. General Examination Requirements.

§ 5.6. Failure to appear.

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

§ 5.7. Reexamination.

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

§ 5.8. Scheduling early examinations.

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

B. All such requests shall be in writing.

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

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

PART VI. ADMINISTRATOR-IN-TRAINING PROGRAM.

Article 1. Trainee Requirements and Application Process.

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

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

Article 2. Training Program.

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

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

1. Applicant shall have been employed full-time for four of the past five consecutive years immediately prior to application as an assistant administrator or director of nursing.
2. The employment described above shall have been in a facility as prescribed in § 6.4.
3. Applicants with experience as a hospital administrator shall have been employed full-time for three of the past five years immediately prior to application as a hospital administrator-of-record or an assistant hospital administrator in a hospital setting having responsibilities in all of the following areas:
 - a. Regulatory;
 - b. Fiscal;
 - c. Supervisory;
 - d. Personnel; and
 - e. Management.

§ 6.4. Training shall be conducted only in:

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

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

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

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

Article 3. Qualifications and Application Process to Train:

Preceptors.

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

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

1. Have a full, unrestricted, and current Virginia nursing home administrator license;
2. Are employed full-time in the facility where training occurs (see § 6.4);
3. Have served for a minimum of two of the past three years immediately prior to the preceptorship as a full-time administrator in accordance with § 6.4 or as an approved preceptor in another state;
4. Submitted the fee prescribed in subdivision 2 of § 3.1;
5. Submitted the completed and signed applications; and
6. Submitted additional documentation as may be required by the board to determine eligibility of the applicant.

Article 4.

Administration of A.I.T. program.

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

§ 6.11. § 6.10. Prior to the beginning of the A.I.T. program, the preceptor shall develop and submit to the board for approval, a training plan including goals and objectives geared to the specific needs of the trainee. These shall be used to assist the A.I.T. in measuring progress in the program. [*to which shall include and be designed around the specific training needs of the administrator-in-training. The training plan shall*] include the Core of Knowledge as defined by Title XVIII and Title XIX of the Social Security Act [*and published in the Federal Register on February 2, 1989,*] and the Domains of Practice as appended to these regulations. [*(See Appendices I and II.)*] The [*training*] plan developed by the board or an alternate plan [*geared to the specific needs of the trainee*] may be used.

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

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

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

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

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

1. Preceptor.

- a. All required monthly progress reports prescribed in § 6.13 § 6.11; and
- b. Written explanation of the causes of program termination.

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

§ 6.17. § 6.15. If the program is interrupted because the approved preceptor is unable to serve, the A.I.T. shall notify the board within five working days and shall obtain a new preceptor.

§ 6.18. § 6.16. Credit for training shall resume when a new preceptor is obtained and approved by the board.

§ 6.19. § 6.17. If an alternate training plan or set of goals is developed, it shall be submitted to the board for approval before A.I.T. resumes training.

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

Article 1. Unprofessional Conduct.

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

1. Conducting the practice of nursing home administration in such a manner as to constitute a danger to the health, safety, and well-being of the residents, staff, or public;
2. Demonstrated inability or unwillingness to maintain a facility in accordance with the Virginia Department of Health Rules and Regulations for the Licensure of

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Nursing Homes in Virginia;

3. Failure to comply with federal, state, or local laws and regulations governing the operation of a nursing home;

4. Conviction of a felony related to the practice for which the license was granted;

5. Failure to comply with any regulations of the board;

6. Failure to comply with continuing education requirements;

7. Inability to practice with skill or safety because of physical, mental, or emotional illness, or substance abuse.

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

PART VIII. CONTINUING EDUCATION.

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

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

1. Nursing home administration;

[~~2. Personnel;~~]

[~~3. 2.] Long term care;~~

[~~4. Health care;~~]

[~~5. Safety;~~]

[~~6. Finance;~~]

[~~7. 3.] Resident care;~~

[~~8. 4.] Physical resource management;~~

[~~9. 5.] Laws, regulatory codes, and governing boards;~~

[~~10. 6.] Courses to gain knowledge in departmental areas;~~

[~~11. 7.] Core of Knowledge in Appendix I; and~~

[~~12. 8.] Domains of Practice in Appendix II.~~

[~~§ 8.3. Effective January 1, 1991, an administrator who holds a license on January 1 of any calendar year shall~~

~~attend 20 classroom hours per calendar year of continuing education.~~

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

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

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

8.5. Effective January 1, 1991, an administrator initially licensed between August 1 and December 31 shall not be required to attend continuing education for the calendar year in which initial licensure took place.]

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

[~~§ 8.3. Requirements for the licensure period beginning January 1, 1990, and ending December 31, 1991.~~

~~Section 8.3 expires and will be deleted from the regulations effective December 31, 1991.~~

~~A. An administrator whose initial date of licensure was on or before May 31, 1990, shall attend 35 classroom hours of continuing education for the licensure period ending December 31, 1991.~~

~~B. An administrator whose initial date of licensure was between June 1, 1990, and March 31, 1991, shall attend 20 classroom hours of continuing education for the licensure period ending December 31, 1991.~~

~~C. An administrator whose initial date of licensure was between April 1, 1991, and July 31, 1991, shall attend 10 classroom hours of continuing education for the licensure period ending December 31, 1991.~~

~~D. An administrator whose initial date of licensure was between August 1, 1991, and December 31, 1991 shall not be required to attend classroom hours of continuing education for the licensure period ending December 31, 1991.~~

§ 8.4. Requirements for licensure periods beginning January 1, 1992, and each annual licensure period thereafter.

A. An administrator who holds a license on January 1,

If any calendar year shall attend 20 classroom hours of continuing education for that calendar year.

B. An administrator whose initial date of licensure is between April 1 and July 31 of any calendar year shall attend 10 classroom hours of continuing education for the calendar year in which initial licensure takes place.

C. An administrator whose initial date of licensure is between August 1 and December 31 of any calendar year shall not be required to attend continuing education for the calendar year in which initial licensure takes place.]

§ [~~8-6~~ 8.5.] Continuing education hours shall be submitted to the board no later than January [~~31~~ 15] of the calendar year following the December 31 deadline requirement.

§ [~~8-7~~ 8.6.] Administrators shall submit evidence of having obtained continuing education credit by:

1. Forwarding copies of certificates or transcripts issued by the course provider and
2. Forwarding an affidavit of completion signed by the administrator on forms provided by the board.

§ [~~8-8~~ 8.7.] Only classroom hours shall be accepted.

§ [~~8-9~~ 8.8.] Credit shall only be given for 30-minute increments.

§ [~~8-10~~ 8.9.] The continuing education hours shall be current to the calendar year in which they were required.

APPENDIX I. CORE OF KNOWLEDGE.

The Core of Knowledge referred to in this program consists of the disciplines under the federal guidelines:

A. Applicable standards of environmental health and safety.

1. Knowledge of local, state and federal regulations applicable to nursing homes.
2. Resources: Local and state health departments, local state regulatory agencies, and federal regulatory agencies.

B. Local and state health and safety regulations.

C. General administration.

D. Psychology of patient care.

Resources: Staff, patient, and advisory physicians; social worker and patient's social history; principles and techniques of long term care nursing (director of nursing, nursing supervisors).

E. Principles of medical care.

1. Resources: Medical director, staff, patient, and advisory physicians/medical colleges, especially those offering degree programs in health care administration or long-term health care.

F. Personal and social care.

G. Therapeutics and supportive care and services in long term care.

1. Resources: Dietary, physical therapy, occupational therapy, clinic, social services, volunteers, family, and pharmacist.

H. Departmental organization and management administrator, advisor physicians, director of nursing, food service manager, laundry and housekeeping supervisor, and maintenance supervisor.

I. Community Interrelationships.

1. Hospitals
2. Hospice programs
3. Other nursing homes
4. Home for adults
5. Retirement or life care communities
6. Home health care
7. Health Department
8. Social service agencies
9. Department for the Aging
10. Area Agencies on Aging
11. Clinics
12. Physicians
13. Medical societies
14. Regulatory agencies
15. Long term care professional associations
16. Advocates for the aged
17. Ombudsman
18. Volunteers
19. Educators

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20. Schools

21. Religious communities

APPENDIX II. DOMAINS OF PRACTICE.

CODE	SUBJECT CATEGORY
10.00	PATIENT CARE
10.10	Nursing Services
10.20	Social Services
10.30	Food Services
10.40	Physician Services
10.50	Social and Therapeutic Recreational Activities
10.60	Medical Records
10.70	Pharmaceutical Services
10.80	Rehabilitation Services
20.00	PERSONNEL MANAGEMENT
20.10	Maintaining positive atmosphere
20.20	Evaluation Procedures
20.30	Recruitment of Staff
20.40	Interviewing Candidates
20.50	Selecting Future Candidates
20.60	Selecting Future Employees
20.70	Providing Staff Development & Training Activities
20.80	Health and Safety
30.00	FINANCIAL MANAGEMENT
30.10	Budgeting
30.20	Financial Planning
30.30	Asset Management
30.40	Accounting
40.00	MARKETING AND PUBLIC RELATIONS
40.10	Public Relations Activities

40.20 Marketing Program

50.00 PHYSICAL RESOURCE MANAGEMENT

50.10 Building & Grounds Maintenance

50.20 Environmental Services

50.30 Safety Procedures and Programs

50.40 Fire and Disaster Plans

60.00 LAWS, REGULATORY CODES &
GOVERNING BOARDS

60.10 Rules and Regulations

60.20 Governing Boards

NOTICE: The forms used in administering the Regulations of the Board of Nursing Home Administrators are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Application for Administrator-in-Training (DHP-14-0102)
Application for Preceptor Certification (DHP-14-0104)
Application for Nursing Home Administrators (DHP-14-0101)
Endorsement Certification Form (DHP-14-0103)
Application for Administrator-in-Training Program Forms

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-08-01. Virginia Energy Assistance Program.

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

Effective Date: November 1, 1991.

Summary:

The amendments incorporate several changes to the Fuel, and Crisis Assistance Components due to a reduction in funding. Benefit levels will not be predetermined. Program design for Fuel Assistance will be based on an automated eligibility determination and benefit calculation process dependent on a point matrix system.

The Crisis Assistance Component will be expanded to provide assistance on a limited basis to households who did not receive Fuel Assistance in the current program year to purchase home heating fuel or to pay to prevent the disconnection of a primary utility.

heat source.

The administrative reimbursement allocation or local administrative expenditure is reduced from 7.0% to 6.0%.

VR 615-08-1. Virginia Energy Assistance Program.

PART I. DEFINITIONS.

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

"Department" means the Department of Social Services.

"Disabled person" means a person receiving Social Security disability, Railroad Retirement Disability, 100% Veterans Administration disability, Supplemental Security Income as disabled, or an individual who has been certified as permanently and totally disabled for Medicaid purposes.

"Elderly person" means anyone who is 60 years of age or older.

"Energy-related," "weather-related," or "supply shortage emergency" means a household has: no heat or an imminent utility cut-off; inoperable or unsafe heating equipment; major air infiltration of housing unit; or a need for air conditioning because of medical reasons.

["Fiscal year" means October 1 through September 30.]

"Household" means an individual or group of individuals who occupies a housing unit and functions as an economic unit by: purchasing residential energy in common (share heat); or, making undesignated payments for energy in the form of rent (heat is included in the rent).

"Poverty guidelines" means the Poverty Income Guidelines as established and published annually by the Department of Health and Human Services.

"Primary heating system" means the system that is currently used to heat the majority of the house.

["Program year" means the specified timeframe established for each of the program components by the department.]

"Resources" means cash, checking accounts, savings account, saving certificates, stocks, bonds, money market certificates, certificates of deposit, credit unions, Christmas clubs, mutual fund shares, promissory notes, deeds of trust, individual retirement accounts, prepaid funeral expenses in excess of \$900, or any other similar resource which can be liquidated in not more than 60 days.

PART II. FUEL ASSISTANCE.

§ 2.1. The purpose of the Fuel Assistance component is to provide heating assistance to eligible households to offset the costs of home energy that are excessive in relation to household income.

A. Eligibility criteria.

1. Income limits. Maximum income limits shall be at or below 130% of the Poverty Guidelines. In order to be eligible for Fuel Assistance, a household's income must be at or below the maximum income limits.

2. Resource limits. The resource limit for a household containing an elderly or disabled person shall be \$3,000. The resource limit for all other households shall be \$2,000. In order to be eligible for Fuel Assistance, a household's resources must be at or below the amount specified.

3. Alien status. Any alien who has obtained the status of an alien lawfully admitted for temporary residence is ineligible for a period of five years from the date such status was obtained. This shall not apply to a Cuban or Haitian entrant or to an alien who is an aged, blind or disabled individual.

B. Resource transfer.

Any applicant of fuel assistance shall be ineligible for that fuel season if he improperly transfers or otherwise improperly disposed of his legal or equitable interest in nonexempt liquid resources without adequate compensation within one year of application for Fuel Assistance.

Compensation that is adequate means goods, services or money that approximates the value of the resources.

This policy does not apply if any of the following occur:

1. The transfer was not done in an effort to become eligible for Fuel Assistance;

2. The resource was less than the allowable resource limit;

3. The disposition or transfer was done without the person's full understanding.

§ 2.2. Benefits.

Benefit levels shall be established based on income in relation to household size, fuel type, and geographic area, with the highest energy need.

Geographic areas are the six climate zones for Virginia recognized by the National Oceanic and Atmospheric Administration and the United States Department of Commerce. The six climate zones are: Northern,

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Tidewater, Central Mountain, Southwestern Mountain, Eastern Piedmont, and Western Piedmont.

Each year, the Division of Energy within the Department of Mines, Minerals and Energy will supply data on the average costs of various fuels.

Each year the benefit amounts for each geographic area household shall be determined by [state computer using] the following method:

A. A projection will be made of the number of households who will apply for Fuel Assistance. The projection will be based on the number of households who applied the previous year increased by the additional number of people who applied the year before. The following factors for each household will be assigned a point value:

Gross monthly income

Living arrangements

Primary heat type

Climate zone

Vulnerability

Person 60 years of age or older

Disabled person in HH

Child under 16

B. An average grant per household will be determined based on the estimated amount of funds that will be available for benefits. The total points of all households will be determined.

$$\frac{\$ \text{ available}}{\text{no. of households}} = \text{average grant}$$

C. The benefits for each geographic area will be determined by using the average grant as a base figure and obtaining the highest and lowest benefits by using a ratio for each area based on degree days and the cost of various fuel types. The available benefit dollars will be divided by the point total to determine a point value.

D. The generic benefit amount for statewide use will be determined by averaging the regional average benefit amounts for each fuel type. The household's benefit amount will be calculated by multiplying the household's point total by the value per point.

PART III. CRISIS ASSISTANCE.

§ 3.1. The purpose of the Crisis Assistance component is to assist households with energy-related, weather-related or

supply shortage emergencies. This component is intended to meet energy emergencies that cannot be met by the Fuel Assistance component or other local resources.

A. Eligibility criteria.

In order to be eligible for Crisis Assistance, a household shall meet the following criteria:

1. All of the Fuel Assistance criteria as set forth in Part II, § 2.1;
2. Have an energy-related, weather-related or supply shortage emergency as defined in Part I;
3. Other resources cannot meet the emergency (including Fuel Assistance);
4. Did not receive Crisis Assistance during the current federal fiscal year : ~~November 1 - March 15.~~ ;
5. For assistance with primary heat source, did not receive Fuel Assistance in current program year.

B. Benefits.

An eligible household can receive no more than \$200 for Crisis Assistance during any federal fiscal year, unless the assistance is for the rebuilding or replacement of heating equipment or purchase of heating equipment where none exists, in which case the maximum amount of assistance shall be \$700.

The following forms of assistance shall be provided:

1. Repairs, replacement or rebuilding of inoperable or unsafe heating equipment.
2. Payment of electricity when it is needed to operate the primary heating equipment. Payment will be limited to \$200 maximum. Assistance may be provided once every five years.
3. A one-time-only payment per fuel type of a heat-related utility security deposit.
4. Providing space heaters.
5. Providing emergency shelter.
6. [To] Purchase [of] home heating fuel or [payment] to [pay] prevent the disconnection of a primary utility heat source. Assistance will be provided during a specified timeframe.

PART IV. COOLING ASSISTANCE.

§ 4.1. Cooling Assistance program is an optional component of the Energy Assistance Program that is designed to provide help to persons medically in need of cooling

assistance due to the heat.

Local agencies who choose this option will be given a separate allocation that will be based on a percentage of their crisis allocation and will provide the assistance no earlier than ~~June 15~~ *July 1* through no later than August 31.

A. Eligibility criteria.

In order to be eligible for cooling assistance, a household must meet all of the fuel assistance eligibility criteria and must be in critical medical need of cooling.

B. Benefits.

The assistance is limited to: no more than \$200 for repairing or renting a fan or air conditioner, purchasing a fan, or paying an electric bill or security deposit; or no more than \$400 for purchasing an air conditioner.

PART V. ADMINISTRATIVE COSTS.

§ 5.1. Local administrative expenditures for the implementation of the Energy Assistance Program shall not be reimbursed in excess of [~~7.0%~~ *6.0%*] of program grant allocation.

* * * * *

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Social Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 615-29-02. Standards for Interdepartmental Regulation of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 63.1-217, 66-10, and 66-24 of the Code of Virginia.

Effective Date: October 9, 1991.

Summary:

Under the current definitions and exceptions in the Code of Virginia the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services are responsible for the regulation of public and private residential facilities providing care or treatment to children. The regulation is designed to assure that adequate care, treatment, and education are provided by residential facilities for children.

The revisions amend the requirements of § 4.3 of the Interdepartmental Standards to rectify dissonance with recent revisions to § 27.97 et seq. of the Code of Virginia. Sections 27.97 et seq. allow local governing body adoption of the "Code." Localities which adopt the code are responsible for its enforcement. The Office of the State Fire Marshal is responsible for inspections and enforcement in localities which do not adopt the code. Many localities have adopted the "Virginia Statewide Fire Prevention Code" and local fire authorities are inspecting some facilities previously inspected by the Office of the State Fire Marshal. The Office of the State Fire Marshal is conducting inspections of some facilities previously inspected by local fire authorities.

The revisions also amend the requirements of § 5.22 of the Interdepartmental Standards to rectify dissonance with recent revisions to § 63.1-204 of the Code of Virginia. Revisions to § 63.1-204 establish more flexible admissions requirements for temporary care facilities regulated by the Department of Social Services. The revisions provide temporary care facilities eight hours following the child's arrival at the facility to obtain and document verbal approval for placement from the legal guardian. The revisions also provide temporary care facilities 24 hours

following the child's arrival or until the end of the next business day after the child's arrival, whichever is later, to obtain a written placement agreement signed by the legal guardian and facility representative.

VR 615-29-02. Standards for Interdepartmental Regulation of Residential Facilities for Children.

PART I INTRODUCTION.

Article 1. Definitions.

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

"Allegation" means an accusation that a facility is operating without a license or receiving public funds, or both, for services it is not certified to provide.

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

"Approval" means the process of recognizing that a public facility or an out-of-state facility has complied with standards for licensure or certification. (In this document the words "license" or "licensure" will include approval of public and out-of-state facilities except when describing enforcement and other negative sanctions which are described separately for these facilities.)

"Aversive stimuli" means physical forces (e.g. sound, electricity, heat, cold, light, water, or noise) or substances (e.g. hot pepper or pepper sauce on the tongue) measurable in duration and intensity which when applied to a client are noxious or painful to the client, but in no case shall the term "aversive stimuli" include striking or hitting the client with any part of the body or with an implement or pinching, pulling, or shaking the client.

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

"Body cavity search" means any examination of a client's rectal or vaginal cavities except the performance of medical procedures by medical personnel.

"Case record" or "Record" means written information assembled in one folder or binder relating to one individual. This information includes social and medical

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data, agreements, notations of ongoing information, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

"Certificate to operate" means documentation of licensure or permission granted by the Department of Education to operate a school for the handicapped that is conveyed on a single license/certificate.

"Certification" means the process of recognizing that a facility has complied with those standards required for it to receive funding from one of the four departments for the provision of residential program services to children. (Under the Code of Virginia, the Board of Youth and Family Services is given authority to "approve" certain public and private facilities for the placement of juveniles. Similarly, school boards are authorized to pay, under certain conditions, for special education and related services in nonsectarian private residential schools for the handicapped that are "approved" by the Board of Education. Therefore, in this context the word "approval" is synonymous with the word "certification" and will be termed certification for purposes of this process.)

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

"Child placing agency" means any person licensed to place children in foster homes or adoptive homes or a local board of public welfare or social services authorized to place children in foster homes or adoptive homes.

"Child with special needs" means a child in need of particular services because he is mentally retarded, developmentally disabled, mentally ill, emotionally disturbed, a substance abuser, in need of special educational services for the handicapped, or requires security services.

"Client" means a person receiving treatment or other services from a program, facility, institution or other entity licensed/certified under these regulations whether that person is referred to as a patient, resident, student, consumer, recipient, or another term.

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

"Confinement procedure" means a disciplinary technique designed to reduce or eliminate inappropriate behavior by temporarily removing a child from contact with people or other reinforcing stimuli through confining the child alone to his bedroom or other normally furnished room. The room in which the child is confined shall not be locked nor the door secured in any manner that will prohibit the child from opening it. See also the definitions of "Timeout Procedure," "Seclusion," "Behavior Management," "Discipline" and other standards related to Behavior Management.

"Contraband" means any item prohibited by law or by the rules and regulations of the agency, or any item which conflicts with the program or safety and security of the facility or individual clients.

"Coordinator" means the person designated by the Coordinating Committee to provide coordination and monitoring of the interdepartmental licensure/certification process.

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

"Department of Youth and Family Services standards for youth facilities" means those additional standards which must be met in order for a facility to receive funding from the Department of Youth and Family Services for the provision of residential treatment services as a juvenile detention facility, a facility providing youth institutional services, a community group home or other residential facility serving children in the custody or subject to the jurisdiction of a juvenile court or of the Department of Youth and Family Services except that the Interdepartmental Standards will be the Department of Youth and Family Services Standards for Youth Facilities for residential facilities receiving public funds pursuant to §§ 16.1-286 or 66-14 of the Code of Virginia for the provision of residential care to children in the custody or subject to the jurisdiction of a juvenile court or of the Department of Youth and Family Services.

"Discipline" means systematic teaching and training that is designed to correct, mold, or perfect behavior according to a rule or system of rules governing conduct. The object of discipline is to encourage self-direction and self-control through teaching the client to accept information, beliefs and attitudes which underlie the required conduct or behavior. The methods of discipline include, besides such instruction, positive reinforcement for exhibiting desirable behavior, as well as reasonable and age-appropriate consequences for exhibiting undesirable behavior, provided that these consequences are applied in a consistent and fair manner that gives the client an opportunity to explain his view of the misbehavior and to learn from the experience. (See also, "Behavior Management")

"Education standards" means those additional standards which shall be met in order for a facility to (i) receive a certificate to operate an educational program that constitutes a private school for the handicapped; or (ii) be approved to receive public funding for the provision of special education and related services to eligible children.

"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. Emergency does not include regularly scheduled time off of permanent staff or other situations which

ould reasonably be anticipated.

"Excursion" means a recreational or educational activity during which children leave the facility under the direct supervision of facility staff for an extended period of time. Excursions include camping trips, vacations, and other similar overnight activities.

"Group home" means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, that is an integral part of the neighborhood and serves up to 12 children.

"Group residence" means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, that is an integral part of the neighborhood and serves from 13 to 24 children.

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

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

"Independent living program" means a program that is specifically approved to provide the opportunity for the clients to develop the skills necessary to live successfully on their own following completion of the program.

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

"Interdepartmental standards" means those standards for residential care which are common to all four departments and which shall be met by all subject residential facilities for children in order to qualify for licensure, certification or approval.

"Intrusive aversive therapy" means a formal behavior management technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior through the application of aversive stimuli contingent upon the exhibition of such behavior. The term shall not include

verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia, or psychotropic medications which are used for purposes other than intrusive aversive therapy.

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

"Licensing/certification authority" means the department or state board that is responsible under the Code of Virginia for the licensure, certification, or approval of a particular residential facility for children.

"Licensure" means the process of granting legal permission to operate a residential facility for children and to deliver program services. (Under the Code of Virginia, no person shall open, operate or conduct a residential school for the handicapped without a "certificate to operate" such school issued by the Board of Education. The issuance of such a "certificate to operate" grants legal permission to operate a school for the handicapped. Therefore, in this context, the term "certificate to operate" is synonymous with the word "licensure" and will be termed licensure for purposes of this process.)

"Live in staff" means staff who are required to be on duty for a period of 24 consecutive hours or more during each work week.

"Living unit" means the space in which a particular group of children in care of a residential facility reside. Such space contains sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the children who reside in the unit. Depending upon its design, a building may contain only one living unit or several separate living units.

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

"Mental disabilities certification standards" means those standards in addition to the Interdepartmental Standards which shall be met in order for a facility to receive funding from the Department of Mental Health, Mental Retardation and Substance Abuse Services for the provision of residential treatment services to mentally ill, emotionally disturbed, mentally retarded, developmentally disabled and/or substance abusing children.

"Mental disabilities licensure standards" means, for those facilities that do not receive funding from the Department

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of Mental Health, Mental Retardation and Substance Abuse Services, those standards in addition to the Interdepartmental Standards which must be met in order for a facility to be licensed to provide care or treatment to mentally ill, emotionally disturbed, mentally retarded, developmentally disabled or substance abusing children.

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

"Parent" means a parent, guardian, or an individual acting as a parent in the absence of a parental guardian. The parent means either parent unless the facility has been provided with evidence that there is a legally binding instrument or a state law or court order governing such matters as divorce, separation, or custody, which provides to the contrary. The term "parent" may include the natural mother or father, the adoptive mother or father, or the legally appointed guardian or committee who has custody of the child. The term "parent" also includes a surrogate parent appointed pursuant to provisions set forth in § II D of the Department of Education's "Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia." A child 18 years or older may assert any rights under these regulations in his own name.

"Pat down" means a thorough external body search of a clothed client.

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

"Placement" means an activity by any person which provides assistance to a parent or guardian in locating and effecting the movement of a child to a foster home, adoptive home or to a residential facility for children.

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

"Professional child and family service worker" means an individual providing social services to a child residing in a residential facility and his family. Such services are defined in Part V, Article 16.

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

"Public funding" means funds paid by, on behalf of, or with the financial participation of the state Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; or Youth and Family Services.

"Resident" means a person admitted to a residential

facility for children for supervision, care, training or treatment on a 24-hour basis. For the purpose of these standards, the words, "resident," "child," "client" and "youth" are used interchangeably.

"Residential facility for children" means a publicly or privately owned facility, other than a private family home, where 24-hour care is provided to children separated from their parents; that is subject to licensure, certification or approval pursuant to the provisions of the Code of Virginia cited in the Legal Base; and includes, but is not limited to, group homes, group residences, secure custody facilities, self-contained residential facilities, temporary care facilities and respite care facilities, except:

1. Any facility licensed by the Department of Social Services as a child-caring institution as of January 1, 1987, and which receives no public funds shall be licensed under minimum standards for licensed child-caring institutions as promulgated by the State Board of Social Services and in effect on January 1, 1987 (§ 63.1-196.4 of the Code of Virginia); and
2. Private psychiatric hospitals serving children will be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services under its "Rules and Regulations for the Licensure of Private Psychiatric Hospitals."

"Respite care facility" means a facility that is specifically approved to provide short term, periodic residential care to children accepted into its program in order to give the parents/guardians temporary relief from responsibility for their direct care.

"Responsible adult" means an adult, who may or may not be a staff member, who has been delegated authority to make decisions and to take actions necessary to assume responsibility for the safety and well-being of children assigned to his care. The term implies that the facility has reasonable grounds to believe that the responsible adult has sufficient knowledge, judgment and maturity commensurate to the demands of the situation for which he is assuming authority and responsibility.

"Rest day" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Two successive rest days shall consist of a period of not less than 48 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive rest day immediately following the second shall consist of not less than 24 additional consecutive hours.

"Right" is something to which one has a natural, legal or moral claim.

"Sanitize" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypochlorite. The amount of bleach used may be

in accordance with manufacturer's recommendation on the package.

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

"Secure custody facility" means a facility designed to provide, in addition to the appropriate treatment and/or service programs, secure environmental restrictions for children who must be detained and controlled on a 24-hour basis.

"Self-contained residential facility" means a residential setting for 13 or more children in which program activities are systematically planned and implemented as an integral part of the facility's staff functions (e.g., services are self-contained rather than provided primarily through community resources). The type of program may vary in intensity according to the needs of the residents. Such settings include nonmedical as well as state-operated hospital based care.

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

"Shall" means an obligation to act is imposed.

"Shall not" means an obligation not to act is imposed.

"Single license/certificate" means a document which grants approval to operate a residential facility for children and which indicates the status of the facility with respect to compliance with applicable certification standards.

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

"Strip search" means a visual inspection of the body of a client when that client's clothing is removed and an inspection of the removed clothing including wigs, dentures, etc. except the performance of medical procedures by medical personnel.

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

"Team" means one or more representatives of the licensing certification authority(ies) designated to visit a residential facility for children to review its compliance with applicable standards.

"Temporary care facility" means a facility specifically approved to provide a range of services, as needed, on an individual basis for a period not to exceed 60 days except

that this term does not include secure detention facilities.

"Timeout procedure" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a child from contact with people or other reinforcing stimuli through confining the child alone to a special timeout room that is unfurnished or sparsely furnished and, which contains few reinforcing environmental stimuli. The timeout room shall not be locked nor the door secured in any manner that will prohibit the child from opening it. (See the definitions of "Confinement Procedure," "Seclusion," "Behavior Management," and "Discipline.")

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

"Visually impaired child" means one whose vision, after best correction, limits his ability to profit from a normal or unmodified educational or daily living setting.

"Wilderness camp" means a facility which provides a primitive camping program with a nonpunitive environment and an experience curriculum for children nine years of age and older who cannot presently function in home, school and community. In lieu of or in addition to dormitories, cabins or barracks for housing children, primitive campsites are used to integrate learning and therapy with real living needs and problems from which the child can develop a sense of social responsibility and self worth.

Article 2. Legal Base.

§ 1.2. The Code of Virginia is the basis for the requirement that private residential facilities for children be licensed, certified and approved. It also authorizes the several departments to operate or reimburse certain public facilities. In addition, P. L. 94-63 and Title XX of the Social Security Act require the establishment of quality assurance systems.

§ 1.3. The State Board of Youth and Family Services or the Department of Youth and Family Services is responsible for approval of facilities used for the placement of court-referred juveniles, as specified by § 16.1-286 and §§ 66-13 and 66-14 of the Code of Virginia, for promulgating a statewide plan for detention and other care facilities and for prescribing standards for such facilities pursuant to §§ 16.1-310 through 16.1-314 of the Code of Virginia; and for establishing and maintaining a system of community group homes or other residential care facilities pursuant to § 66-24 of the Code of Virginia.

§ 1.4. The State Board of Education is responsible for issuing certificates to operate (licenses) for residential schools for the handicapped in the Commonwealth of Virginia, as specified in Chapter 16 of of Title 22.1 (§§

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22.1-319 through 22.1-335) of the Code of Virginia. It is further responsible for the general supervision of the public school system for all school age residents of Virginia (for handicapped children, ages 2-21) and for approval of private nonsectarian education programs for the handicapped, as specified by § 22.1-218 of the Code of Virginia.

§ 1.5. The Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for licensure of facilities or institutions for the mentally ill, mentally retarded, and substance abusers within the Commonwealth of Virginia, as specified in Chapter 8 of Title 37.1 (§§ 37.1-179 through 37.1-189) of the Code of Virginia. It is also responsible for the certification of group homes as specified in § 37.1-199 of the Code of Virginia.

§ 1.6. The Department of Social Services is responsible for licensure of certain child welfare agencies and facilities in Virginia, as specified in Chapter 10 of Title 63.1 (§§ 63.1-195 through 63.1-219) of the Code of Virginia. It is also responsible for the certification of local welfare/social services department "agency operated" group homes, as specified in § 63.1-56.1 of the Code of Virginia.

Article 3. Interdepartmental Agreement.

§ 1.7. An "Agreement for Interdepartmental Licensure and Certification of Children's Residential Facilities" was approved by the Director of the Department of Corrections; the Commissioners of the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Department of Social Services; and the Superintendent of Public Instruction and was initially signed on January 8-9, 1979. The agreement was updated effective September 30, 1984.

This agreement commits the above departments to apply the same standards to both public and private facilities and provides a framework for:

1. The joint development and application of licensure and certification standards;
2. A single coordinated licensure, certification and approval process that includes:
 - a. A single application for appropriate licensure, certification or approval;
 - b. A system for review of compliance with applicable standards;
 - c. A single license/certificate issued under the authority of the appropriate department(s) or board(s); and
 - d. Clear lines of responsibility for the enforcement of standards.

3. An Office of the Coordinator to provide central coordination and monitoring of the administration of the interdepartmental licensure/certification program.

Article 4. General Licensing/Certification Requirements.

§ 1.8. All residential facilities for children must demonstrate an acceptable level of compliance with the Interdepartmental Standards and other applicable licensure requirements (e.g. Mental Disabilities Licensure Standards) and shall submit a plan of corrective action acceptable to the licensing authority for remedying within a specified time any noncompliance in order to be licensed to operate or be certified to receive children in Virginia. Facilities also shall demonstrate an acceptable level of compliance with other applicable standards, such as Education Standards, Mental Disabilities Certification Standards and Department of Youth and Family Services Standards for Youth Facilities, and submit a plan of corrective action acceptable to the certification authority for remedying within a specified time any noncompliance in order to be certified or approved.

§ 1.9. Investigations of applications for licensure/certification will be carried out by representatives of the licensure/certification authority with each representative participating in the evaluation of compliance with applicable standards. The decision to license or certify will be based primarily on the findings and recommendations of these representatives of the licensing/certification authority.

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

Article 5. The License/Certificate.

§ 1.11. The interdepartmental program will utilize a single licensure/certification process encompassing the Interdepartmental Standards and certification standards. A single document will be issued to each qualified facility which will, under appropriate statutory authority(ies), grant permission to operate a residential facility for children or certify approval for the placement of children using public funds and which will indicate the status of each facility with respect to compliance with applicable certification standards.

§ 1.12. The terms of any license/certificate issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or corporation or public agency to whom the license/certificate is issued; (iii) the physical location of the facility; (iv) the nature of the population; (v) the maximum number of persons to be accepted for care; (vi)

the effective dates of the license; and (vii) other specifications prescribed within the context of the standards.

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

§ 1.14. Separate licenses/certificates are required for facilities maintained on separate pieces of property which do not have a common boundary, even though these may be operated under the same management and may share services and/or facilities.

§ 1.15. The current license/certificate shall be posted at all times in a place conspicuous to the public.

Article 6. Types of Licenses/Certificates.

§ 1.16. An annual license/certificate may be issued to a residential facility for children that is subject to the licensure authority of the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; or Social Services when its activities, services and requirements substantially meet the minimum standards and requirements set forth in the Interdepartmental Standards, applicable certification standards and any additional requirements that may be specified in relevant statutes. An annual license/certificate is effective for 12 consecutive months, unless it is revoked or surrendered sooner.

§ 1.17. A provisional license/certificate may be issued whenever an applicant is temporarily unable to comply with all of the requirements set forth in the Interdepartmental Standards or applicable certification standards and under the condition that the requirements will be met within a specified period of time. A facility with provisional licensure/certification is required to demonstrate that it is progressing toward compliance. A provisional license/certificate shall not be issued where the noncompliance poses an immediate and direct danger to the health and safety of the residents.

A. For those facilities for which the Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority as specified in Chapter 8 of Title 37.1 of the Code of Virginia, at the discretion of the licensing authority a provisional license may be issued to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements. Such a provisional license may be renewed, but such provisional licensure and any renewals thereof shall not exceed a period of six successive months. A provisional license also may be issued to a facility which has previously been fully licensed when such facility is temporarily unable to comply with all licensing standards. However, pursuant to

§ 37.1-183.2 of the Code of Virginia, such a provisional license may be issued for any period not to exceed 90 days and shall not be renewed.

B. For those facilities for which the Department of Social Services is the licensing authority as specified in Chapter 10 of Title 63.1 of the Code of Virginia, a provisional license may be issued following the expiration of an annual license. Such provisional licensure and any renewals thereof shall not exceed a period of six successive months. At the discretion of the licensing authority, a conditional license may be issued to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements.

Such a conditional license may be renewed, but such conditional licensure and any renewals thereof shall not exceed a period of six successive months.

§ 1.18. An extended license/certificate may be issued following the expiration of an annual or an extended license/certificate provided the applicant qualifies for an annual license/certificate and, additionally, it is determined by the licensing/certification authority that (i) the facility has a satisfactory compliance history; and (ii) the facility has had no significant changes in its program, population, sponsorship, staffing and management, or financial status during the term of the previous annual or extended license. In determining whether a facility has a satisfactory compliance history, the licensing/certification authority shall consider the facility's maintenance of compliance as evidenced by licensing complaints; monitoring visits by staff of the licensing authority; reports of health, fire and building officials; and other sources of information reflecting on the facility's continued compliance with applicable standards. An extended license is effective for a specified period not to exceed 24 consecutive months, unless it is revoked or surrendered sooner.

§ 1.19. A residential facility for children operating under certification by the Department of Youth and Family Services may be issued a certificate indicating the status of the facility with respect to compliance with applicable certification standards. Such a certificate is effective for a specified period not to exceed 24 consecutive months, unless it is revoked or surrendered sooner.

§ 1.20. The term of any certification(s) issued on an annual, provisional or extended license/certificate shall be coincident with the effective dates of the license.

§ 1.21. There shall be no fee to the licensee for licensure, certification or approval.

Article 7. Preapplication Consultation Services.

§ 1.22. Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the Office of the Coordinator and the participating

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departments.

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

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

Article 8. The Initial Application.

§ 1.24. The application for a license to operate a residential facility for children shall be available from the Office of the Coordinator and the participating departments.

§ 1.25. All application forms and related information requests shall be designed to assure compliance with the provision of standards and relevant statutes.

§ 1.26. Completed applications along with other information required for licensure, certification or approval shall be submitted at least 60 days in advance of the planned opening date. Receipt shall be acknowledged.

Article 9. The Investigation.

§ 1.27. Following receipt and evaluation of each completed application, a team will be organized made up of representatives from the departments which will be participating in the review of that particular facility.

§ 1.28. The team will arrange and conduct an on-site inspection of the proposed facility; a thorough review of the proposed services; and investigate the character, reputation, status, and responsibility of the applicant.

Article 10. Allowable Variance.

§ 1.29. The licensing/certification authority has the sole authority to waive a standard either temporarily or permanently when in its opinion:

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

§ 1.30. Any request for an allowable variance shall be submitted in writing to the licensing/certification authority.

§ 1.31. The denial of a request for a variance is appealable through the normal appeals process when it leads to the denial or revocation of licensure/certification.

Article 11. Decision Regarding Licensure/Certification.

§ 1.32. Within 60 days of receipt of a properly completed application, the investigation will be completed and the applicant will be notified in writing of the decision regarding licensure/certification.

Article 12. Issuance of a License, Certificate or Approval.

§ 1.33. Private facilities.

If licensure/certification (either annual, provisional or extended) is granted, the facility will be issued a license/certificate with an accompanying letter citing any areas of noncompliance with standards. This letter will also include any specifications of the license and may contain recommendations.

§ 1.34. Public and out-of-state facilities.

If approval is granted, the facility will be issued a certificate of approval indicating that it has met standards required for it to operate and receive public funds.

Article 13. Intent to Deny a License, Certificate or Approval.

§ 1.35. If denial of a license, certificate or approval is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

§ 1.36. Private facilities.

The notification of intent to deny a license or certificate will be a letter signed by the licensing/certification authority(ies) and sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the licensing/certification authorities to deny;
2. A list of noncompliances and circumstances leading to the denial; and

3. Notice of the facility's rights to a hearing.

§ 1.37. Locally-operated facilities.

The notification of intent to deny a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore, stating the reasons for the action, as well as the applicable state board or departmental sanctions or actions to which they are liable.

§ 1.38. State-operated public facilities.

The notification of intent to deny an approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, to the appropriate department head, and to the Secretary stating the reasons for the action and advising appropriate sanctions or actions.

§ 1.39. Out-of-state facilities.

The notification of denial of approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to each of the four departments stating the reasons for the action. Any department having children placed in such a facility shall be responsible for immediate removal of the children when indicated.

§ 1.40. The hearing.

An interdepartmental hearing will be arranged when necessary. Hearings will be conducted in accordance with the requirements of the Administrative Process Act, § 9-6.14:1 et seq., of the Code of Virginia. Each licensing/certification authority will be provided with the report of the hearing on which to base the licensing authority's final decision. The Office of the Coordinator will be notified of the licensing authority's decision within 30 days after the report of the hearing is submitted. When more than one licensing/certification authority is involved, they will coordinate the final decision.

§ 1.41. Final decision.

A letter will be sent by registered mail notifying the facility of the final decision of the licensing/certification authorities. This letter will be drafted for the signatures of those departmental authorities who are delegated responsibility for such actions by statute. In case of denial, the facility shall cease operation or change its program so that it no longer requires licensure/certification. This shall be done within 30 days.

Article 14. Renewal of License/Certificate.

§ 1.42. Approximately 90 days prior to the expiration of a license/certificate, the licensee will receive notice of

expiration and an application for renewal of the license/certificate. The materials to be submitted will be indicated on the application.

In order to renew a license/certificate, the licensee shall complete the renewal application and return it and any required attachments. The licensee should submit this material within 30 days after receipt in order to allow at least 60 days to process the application prior to expiration of the license.

§ 1.43. The process for review of the facility and issuance or denial of the license/certificate will be the same as for an initial application (See Part I, Articles 8, 9, 12, 13).

Article 15. Early Compliance.

§ 1.44. A provisional or conditional license/certificate may be replaced with an annual license/certificate when all of the following conditions exist:

1. The facility complies with all standards as listed on the face of the provisional or conditional license/certificate well in advance of its expiration date and the facility is in substantial compliance with all other standards;
2. Compliance has been verified by an on-site observation by a representative(s) of the licensing/certification authority or by written evidence provided by the licensee; and
3. All other terms of the license/certificate remain the same.

§ 1.45. A request to replace a provisional license/certificate and to issue an annual license/certificate shall be made in writing by the licensee.

§ 1.46. If the request is approved, the effective date of the new annual license/certificate will be the same as the beginning date of the provisional license/certificate.

Article 16. Situations Requiring a New Application.

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

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

Article 17. Modification of License/Certificate.

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§ 1.48. The conditions of a license/certificate may be modified during the term of the license with respect to the number of children, the age range or other conditions which do not constitute substantial changes in the services or target population.

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

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

Article 18. Visitation of Facilities.

§ 1.49. Representatives of the departments shall make announced and unannounced visits during the effective dates of the license/certificate. The purpose of these visits is to monitor compliance with applicable standards.

Article 19. Investigation of Complaints and Allegations.

§ 1.50. The four departments are responsible for complete and prompt investigation of all complaints and allegations, and for notification of the appropriate persons or agencies when removal of children may be necessary. Suspected criminal violations shall be reported to the appropriate law-enforcement authority.

Article 20. Revocation of License/Certificate.

§ 1.51. Grounds for revocation.

The license, certificate or approval may be revoked when the licensee:

1. Violates any provision of the applicable licensing laws or any applicable standards made pursuant to such laws;
2. Permits, aids or abets the commission of any illegal act in such facility;
3. Engages in conduct or practices which are in violation of statutes related to abuse or neglect of children; or
4. Deviates significantly from the program or services for which a license was issued without obtaining prior written approval from the licensing/certification authority and/or fails to correct such deviations within the time specified.

§ 1.52. Notification of intent to revoke.

If revocation of a license, certificate or approval is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

§ 1.53. Private facilities.

The notification of intent to revoke a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the licensing/certification authorities to revoke;
2. A list of noncompliances and circumstances leading to the revocation; and
3. Notice of the facility's rights to a hearing.

§ 1.54. Locally-operated facilities.

The notification of intent to revoke a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore stating the reasons for the action as well as the applicable state board or departmental sanctions or actions to which they are liable.

§ 1.55. State-operated public facilities.

The notification of intent to revoke an approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, to the appropriate department head, and to the appropriate Secretary in the Governor's Cabinet, stating the reasons for the action and advising appropriate sanctions or actions.

§ 1.56. Out-of-state facilities.

The notification of revocation of approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, and to each of the four departments stating the reasons for the action. Any department having children placed in such a facility shall be responsible for immediate removal of the children when indicated.

§ 1.57. The hearing.

An interdepartmental hearing will be arranged, when necessary. Hearings will be conducted in accordance with the requirements of the Administrative Process Act, §9-6.14:1 et seq. of the Code of Virginia. Each licensing/certification authority will be provided with the report of the hearing on which to base the licensing authority's final decision. The Office of the Coordinator will be notified of the licensing authority's decision within 30 days after the report of the hearing is submitted. When

more than one licensing/certification authority is involved, they will coordinate the final decision.

§ 1.58. Final decision.

A letter will be sent by registered mail notifying the facility of the final decision of the licensing/certification authorities. This letter will be drafted for the signatures of those departmental authorities who are delegated responsibility for such actions by statute. In case of revocation, the facility shall cease operation or change its program so that it no longer requires licensure/certification. This shall be done within 30 days.

§ 1.59. Suppression of unlicensed operations.

The suppression of illegal operations or activities involves action against a person or group operating without a license/certificate or operating after a license/certificate has expired or has been denied or revoked. All allegations of illegal operations shall be investigated promptly. After consultation with counsel, action may be initiated by the licensing/certification authority against illegally operating facilities by means of civil action, by injunction or by criminal action.

§ 1.60. Appeals.

A. Following receipt of the final order transmitting the decision of the licensing/certification authority(ies) after an administrative hearing, the applicant/licensee has the right to appeal pursuant to the applicable sections of the Administrative Process Act, § 9-6.14.1 et seq. of the Code of Virginia.

B. Continued operation of a facility during the appeal process shall conform to applicable sections of the Code of Virginia.

PART II. ORGANIZATION AND ADMINISTRATION.

Article 1. Governing Body.

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

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

Article 2. Responsibilities of the Licensee.

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

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

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

§ 2.5. The licensee shall develop a written statement of the philosophy and the objectives of the facility including a description of the population to be served and the program to be offered.

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

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

Article 3. Fiscal Accountability.

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

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

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

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

§ 2.11. Facilities having an approved rate established in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include:

1. A copy of the facility's most recently completed financial audit;
2. A report on any changes in income, expenses, assets, and liabilities that significantly change the fiscal condition of the facility as reflected in the

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financial audit submitted or a statement that no such changes have occurred; and

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

§ 2.12. Facilities operated by state or local government agencies, boards and commissions that do not have an approved rate established in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include a working budget showing appropriated revenue and projected expenses for the coming year.

§ 2.13. Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships that do not have a rate set in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include:

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

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

Article 4. Internal Operating Procedures.

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

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

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

Article 5. Insurance.

§ 2.18. A facility shall maintain liability insurance covering the premises and the facility's operations.

§ 2.19. There shall be liability insurance on vehicle operated by the facility.

Article 6. Bonding.

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

Article 7. Fund-Raising.

§ 2.21. The facility shall not use children in its fund-raising activities without written permission of parent, guardian or agency holding custody.

Article 8. Relationship to Licensing Authority.

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

§ 2.23. The governing body or its official representative shall notify the licensing authority(ies) within five working days of:

1. Any change in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program.

§ 2.24. In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety and well-being of the children in care, the facility shall:

1. Take appropriate action to protect the health, safety and well-being of the children in care;
2. Take appropriate actions to remedy such conditions as soon as possible, including reporting to and cooperating with local health, fire, police or other appropriate officials; and
3. Notify the licensing authority(ies) of the conditions at the facility and the status of the children in care as soon as possible.

Article 9. Participation of Children in Research.

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

statute.

Article 10. Children's Records.

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

§ 2.27. Each case record shall be kept up to date and in a uniform manner.

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

Article 11. Confidentiality of Children's Records.

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

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

Article 12. Storage of Confidential Records.

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

§ 2.32. Records shall be stored in a metal file cabinet or other metal compartment.

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

Article 13. Disposition of Children's Records.

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

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

1. Child's name;
2. Date and place of child's birth;
3. Dates of admission and discharge;
4. Names and addresses of parents and siblings; and

5. Name and address of legal guardian.

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

Article 14. Residential Facilities for Children Serving Persons Over the Age of 17 Years.

§ 2.37. Residential facilities for children subject to Interdepartmental licensure/certification which are also approved to maintain in care persons over 17 years of age, shall comply with the requirements of the Interdepartmental Standards for the care of all residents, regardless of age, except that residential programs serving persons over 17 years of age, shall be exempt from this requirement when it is determined by the licensing/certification authority(ies) that the housing, staff and programming for such persons is maintained separately from the housing, staff and programming for the children in care.

PART III. PERSONNEL.

Article 1. Health Information.

§ 3.1. Health information required by these standards shall be maintained for the chief administrative officer, for all staff members who come in contact with children or handle food, and for any individual who resides in a building occupied by children including any such persons who are neither staff members nor children in care of the facility.

Article 2. Initial Tuberculosis Examination and Report.

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

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

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

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

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Article 3.

Subsequent Evaluations for Tuberculosis.

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

Article 4.

Physical or Mental Health of Personnel.

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

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

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

Article 5.

Qualifications.

§ 3.9. Standards in Part III, Articles 12-14 establishing minimum position qualifications shall be applicable to all facilities. In lieu of these minimum position qualifications, (i) facilities subject to the rules and regulations of the Virginia Department of Personnel and Training, or (ii) facilities subject to the rules and regulations of a local government personnel office may develop written minimum entry level qualifications in accord with the rules and regulations of the supervising personnel authority.

§ 3.10. Any person who assumes or is designated to assume the responsibilities of a staff position or any combination of staff positions described in these standards shall meet the qualifications of that position(s) and shall fully comply with all applicable standards for each function.

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

Article 6.

Job Descriptions.

§ 3.12. For each staff position there shall be a written job description which, at a minimum, shall include:

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

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

Article 7.

Written Personnel Policies and Procedures.

§ 3.14. The licensee shall approve written personnel policies.

§ 3.15. The licensee shall make its written personnel policies readily accessible to each staff member.

§ 3.16. The facility shall develop and implement written policies and procedures to assure that persons employed in or designated to assume the responsibilities of each staff position possess the knowledge, skills and abilities specified in the job description for that staff position.

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

1. Acceptable methods for discipline and behavior management of children;
2. Procedures for handling accusations against staff; and
3. Procedures for promptly referring suspected cases of child abuse and neglect to the local protective service unit and for cooperating with the unit during any investigation. (See § 5.143)

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

Article 8.

Personnel Records.

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

1. A completed employment application form or other written material providing:
 - a. Identifying information (name, address, phone

number, social security number, and any names previously utilized);

b. Educational history; and

c. Employment history.

2. Written references or notations of oral references;

3. Reports of required health examinations;

4. Annual performance evaluations; and

5. Documentation of staff development activities.

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

§ 3.21. Information sufficient to respond to reference requests on separated employees shall be permanently maintained. Information shall minimally include name, social security number, dates of employment, and position(s) held.

Article 9. Staff Development.

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

§ 3.23. Provision shall be made for staff development activities, designed to update staff on items in § 3.22 and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be limited to, supervision and formal training.

§ 3.24. Regular supervision of staff shall be provided.

§ 3.25. Regular supervision of staff shall not be the only method of staff development.

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

Article 10. Staff Supervision of Children.

§ 3.27. No member of the child care staff shall be on duty more than six consecutive days between rest days except in an emergency except:

1. A child care staff member may attend training FOLLOWING WORKING AT THE FACILITY without a rest day. However, the staff member shall not work

more than 10 consecutive days between rest days including working at the facility and training.

2. A child care staff member may accompany an excursion FOLLOWING WORKING AT THE FACILITY without a rest day. However, the staff member shall not work more than 14 consecutive days between rest days including working at the facility and the excursion.

3. A child care staff member accompanying an excursion shall not work at the facility for more than two consecutive days PRIOR TO THE EXCURSION.

4. A child care staff member may return to work at the facility without a rest day AFTER ACCOMPANYING AN EXCURSION OR ATTENDING TRAINING. However, a staff member who returns to work at the facility shall not work more than six consecutive days between rest days including excursion and training days.

§ 3.28. Child care staff shall have an average of not less than two rest days per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3.29. Child care staff other than live in staff shall not be on duty more than 16 consecutive hours except in an emergency.

§ 3.30. There shall be at least one responsible adult on the premises and on duty at all times that one or more children are present.

§ 3.31. Each facility shall develop and implement written policies and procedures which address deployment of staff and supervision of children. The number of children being supervised may vary among staff members except that the total number of child care staff on duty shall not be less than the minimum number required by §§ 3.33 and 3.34 to supervise the total number of children on the premises and participating in off campus, facility sponsored activities.

§ 3.32. Written policies and procedures governing deployment of staff shall be reviewed and approved by the regulatory authority prior to implementation.

§ 3.33. During the hours that children normally are awake there shall be no less than one child care staff member awake, on duty and responsible for supervision of every 10 children, or portion thereof, on the premises or participating in off campus, facility sponsored activities except that:

1. In approved independent living programs, there shall be one child care staff member awake, on duty and responsible for supervision of every 15 children on the premises or participating in off campus, facility sponsored activities;

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2. For children under four years of age, there shall be one child care staff member awake, on duty and responsible for supervision of every three children who are on the premises or participating in off campus, facility sponsored activities except that this requirement shall not apply to severely, multihandicapped, nonambulatory children; and

3. For severely multihandicapped, nonambulatory children under four years of age, there shall be one child care staff member awake, on duty and responsible for supervision of every six children.

§ 3.34. Supervision during sleeping hours.

A. During the hours that children normally are sleeping there shall be no less than one child care staff member on duty and responsible for supervision of every 16 children, or portion thereof, on the premises.

B. There shall be at least one child care staff member awake and on duty:

1. In each building where 30 or more children are sleeping,
2. On each floor where 30 or more children are sleeping, and
3. On each major wing of each floor where 30 or more children are sleeping.

§ 3.35. Emergency telephone numbers.

A. When children are away from the facility they and the adults responsible for their care during that absence shall be furnished with a telephone number where a responsible facility staff member or other responsible adult may be reached at all times except that this requirement shall not apply to secure detention facilities.

B. When children are on the premises of the facility, the staff on duty shall be furnished with a telephone number where the administrator or his designee may be reached at all times.

§ 3.36. Children shall be provided privacy from routine sight supervision by staff members of the opposite gender while bathing, dressing, or conducting toileting activities. This requirement shall not apply to medical personnel performing medical procedures, to staff providing assistance to infants, or to staff providing assistance to children whose physical or mental disabilities dictate the need for assistance with these activities as justified in the client's record.

§ 3.37. Searches.

A. If a facility conducts pat downs it shall develop and implement written policies and procedures governing them. A facility that does not conduct pat downs shall have a

written policy prohibiting them.

B. Written policies and procedures governing pat downs shall be reviewed and approved by the regulatory authority prior to implementation.

C. Written policies and procedures governing pat downs shall include:

1. A requirement that pat downs be limited to instances where they are necessary to prohibit contraband;
2. A listing of the specific circumstances when pat downs are permitted;
3. A statement that pat downs shall be conducted only in the specific circumstances enumerated in the written policies and procedures;
4. A requirement that pat downs be conducted by personnel of the same gender as the client(s) being searched;
5. A listing of the personnel authorized to conduct pat downs;
6. A statement that pat downs shall be conducted only by personnel authorized to conduct searches by the written policies and procedures;
7. A requirement that witnesses, if any, be of the same gender as the client(s) being searched; and
8. Provisions to ensure the client's privacy.

D. Strip searches and body cavity searches are prohibited except:

1. As permitted by other applicable state regulations, or
2. As ordered by a court of competent jurisdiction.

Article 11.
The Chief Administrative Officer.

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

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

§ 3.39. Duties of the chief administrative officer may be delegated to qualified subordinate staff.

§ 3.40. Duties delegated by the chief administrative officer shall be reflected in the job description of the position assigned each delegated function.

§ 3.41. A qualified staff member shall be designated to assume responsibility for the operation of the facility in the absence of the chief administrative officer.

Article 12. The Program Director.

§ 3.42. The program director shall be responsible for the development and implementation of the programs and services (See Part V) offered by the residential facility for children.

§ 3.43. A program director appointed after July 1, 1981, shall have:

1. A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied profession; or

2. A graduate degree from an accredited college or university in a profession related to child care and development; or

3. A license or certification in the Commonwealth of Virginia as a drug or alcoholism counselor/worker if the facility's purpose is to treat drug abuse or alcoholism.

§ 3.44. Any qualified staff member, including the chief administrative officer, may serve as the program director.

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

Article 13. Child and Family Service Worker(s).

§ 3.46. If not provided by external resources in accord with § 5.45, counseling and social services (see § 5.43), shall be provided by a staff member(s) qualified to provide such services.

§ 3.47. If employment begins after July 1, 1981, the Child and Family Service Worker shall have:

1. A graduate degree in social work, psychology, counseling or a field related to family services or child care and development; or

2. A baccalaureate degree and two years of successful experience in social work, psychology, counseling or a field related to family services or child care and development (In lieu of two years of experience, the person may work under the direct supervision of a

qualified supervisor for a period of two years); or

3. A license or certificate in the Commonwealth of Virginia to render services as a drug abuse or alcoholism counselor/worker only in facilities which are certified to provide drug abuse or alcoholism counseling; or

4. A license or certificate when required by law issued in the Commonwealth of Virginia to render services in the field of:

- a. Social Work, or
- b. Psychology, or
- c. Counseling (individual, group or family).

Article 14. Child Care Staff.

§ 3.48. In each child care unit a designated staff member shall have responsibility for the development of the daily living program within the child care unit.

§ 3.49. A designated staff member shall be responsible for the coordination of all services offered to each child.

§ 3.50. A designated staff member(s) shall have responsibility for the orientation, training and supervision of child care workers.

§ 3.51. An individual employed after July 1, 1981, to supervise child care staff shall have:

1. A baccalaureate degree from an accredited college or university and two years experience in the human services field, at least one of which shall have been in a residential facility for children; or

2. A high school diploma or a General Education Development Certificate (G.E.D.) and a minimum of five years experience in the human service field with at least two years in a residential facility for children.

§ 3.52. The child care worker shall have direct responsibility for guidance and supervision of the children to whom he is assigned. This shall include:

1. Overseeing physical care;
2. Development of acceptable habits and attitudes;
3. Discipline; and
4. Helping to meet the goals and objectives of any required service plan.

§ 3.53. A child care worker shall be no less than 18 years of age.

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§ 3.54. A child care worker shall:

1. Be a high school graduate or have a General Education Development Certificate (G.E.D.) except that individuals employed prior to the effective date of these standards shall meet this requirement by July 1, 1986; and
2. Have demonstrated, through previous life and work experiences, an ability to maintain a stable environment and to provide guidance to children in the age range for which the child care worker will be responsible.

Article 15.
Relief Staff.

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

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

Article 16.
Medical Staff.

§ 3.56. Services of a licensed physician shall be available for treatment of children as needed.

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

§ 3.58. At all times that youth are present there shall be at least one responsible adult on the premises who has received within the past three years a basic certificate in standard first-aid (Multi-Media, Personal Safety, or Standard First Aid Modular) issued by the American Red Cross or other recognized authority except that this requirement does not apply during those hours when a licensed nurse is present at the facility.

§ 3.59. At all times that youth are present there shall be at least one responsible adult on the premises who has received a certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority.

Article 17.
Recreation Staff.

§ 3.60. There shall be designated staff responsible for organized recreation who shall have:

1. Experience in working with and providing supervision to groups of children with varied recreational needs and interests;
2. A variety of skills in group activities;

3. A knowledge of community recreational facilities, and

4. An ability to motivate children to participate in constructive activities.

Article 18.
Volunteers and Students Receiving Professional Training.

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

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

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

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

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

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

§ 3.67. Volunteers/students shall be informed regarding liability and protection.

Article 19.
Support Functions.

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

§ 3.69. All food handlers shall comply with applicable State Health Department regulations and with any locally adopted health ordinances.

§ 3.70. Child care workers and other staff may assume the duties of service personnel only when these duties do not interfere with their responsibilities for child care.

§ 3.71. Children shall not be solely responsible for support functions.

PART IV.
RESIDENTIAL ENVIRONMENT.

Article 1.
Location.

§ 4.1. A residential facility for children shall be located so that it is reasonably accessible to schools, transportation, medical and psychiatric resources, churches, and recreational and cultural facilities.

Article 2. Buildings, Inspections and Building Plans.

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

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

1. ~~Local fire authorities with respect to fire safety and fire hazards, except in state operated facilities; State fire officials or local fire authorities, as applicable, whose inspection shall determine compliance with the "Virginia Statewide Fire Prevention Code"; and~~

~~2. State fire officials, where applicable; and~~

~~2. State or local health authorities, whose inspection and approval shall include:~~

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

§ 4.4. The buildings shall be suitable to house the programs and services provided.

Article 3. Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications to Existing Buildings.

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

1. Local building officials;
2. Local fire departments;
3. Local or state health departments; and

4. Office of the State Fire Marshal.

§ 4.6. Documentation of the approvals required by § 4.5 shall be submitted to the licensing authority(ies).

Article 4. Heating Systems, Ventilation and Cooling Systems.

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

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

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

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

Article 5. Lighting.

§ 4.11. Artificial lighting shall be by electricity.

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

§ 4.13. Night lights shall be provided in halls and bathrooms.

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

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

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

Article 6. Plumbing and Toilet Facilities.

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

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

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

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§ 4.20. There shall be at least one toilet, one hand basin and one shower or bathtub in each living unit, and there shall be at least one bathroom equipped with a bathtub in each facility.

§ 4.21. There shall be at least one toilet, one hand basin and one shower or tub for every eight children in care.

§ 4.22. In any facility constructed or reconstructed after July 1, 1981, except secure detention facilities there shall be one toilet, one hand basin and one shower or tub for every four children in care.

§ 4.23. When a separate bathroom is not provided for staff on duty less than 24 hours, the maximum number of staff members on duty in the living unit at any one time shall be counted in the determination of the number of toilets and hand basins.

§ 4.24. There shall be at least one mirror securely fastened to the wall at a height appropriate for use in each room where hand basins are located except in security rooms in hospitals, secure detention facilities and learning centers.

§ 4.25. At all times an adequate supply of personal necessities shall be available to the children for purposes of personal hygiene and grooming; such as, but not limited to, soap, toilet tissue, toothpaste, individual tooth brushes, individual combs and shaving equipment.

§ 4.26. Clean, individual washclothes and towels shall be available once each week or more often if needed.

Article 7.

Facilities and Equipment for Residents with Special Toileting Needs.

§ 4.27. When residents are in care who are not toilet trained:

1. Provision shall be made for sponging, diapering and other similar care on a nonabsorbent changing surface which shall be cleaned with warm soapy water after each use.
2. A covered diaper pail, or its equivalent, with leakproof disposable liners shall be available. If both cloth and disposable diapers are used there shall be a diaper pail for each.
3. Adapter seats and toilet chairs shall be cleaned with warm soapy water immediately after each use.
4. Staff shall thoroughly wash their hands with warm soapy water immediately after assisting an individual resident or themselves with toileting.

Article 8. Sleeping Areas.

§ 4.28. When children are four years of age or older, boys shall have separate sleeping areas from girls.

§ 4.29. No more than four children may share a bedroom or sleeping area.

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

§ 4.31. There shall be sufficient space for beds to be at least three feet apart at the head, foot and sides and five feet apart at the head, foot and sides for double-decker beds.

§ 4.32. In facilities previously licensed by the Department of Social Services and in facilities established, constructed or reconstructed after July 1, 1981, sleeping quarters shall meet the following space requirements:

1. There shall be not less than 450 cubic feet of air space per person;
2. There shall be not less than 80 square feet of floor area in a bedroom accommodating only one person;
3. There shall be not less than 60 square feet of floor area per person in rooms accommodating two or more persons; and
4. All ceilings shall be at least 7-1/2 feet in height.

§ 4.33. Each child shall have a separate, clean, comfortable bed equipped with mattress, pillow, blanket(s), bed linens, and, if needed, a waterproof mattress cover.

§ 4.34. Bed linens shall be changed at least every seven days or more often, if needed.

§ 4.35. Mattresses and pillows shall be clean and those placed in service after July 1, 1981, shall also be fire retardant as evidenced by documentation from the manufacturer.

§ 4.36. Cribs shall be provided for children under two years of age.

§ 4.37. Each child shall be assigned drawer space and closet space, or their equivalent, accessible to the sleeping area for storage of clothing and personal belongings.

§ 4.38. The sleeping area environment shall be conducive to sleep and rest.

§ 4.39. Smoking by any person shall be prohibited in sleeping areas.

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Article 9. Privacy for Children.

§ 4.40. Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy except in secure detention facilities.

§ 4.41. Where bathrooms are not designated for individual use, bathtubs and showers, except in secure detention facilities, shall provide visual privacy for bathing by use of enclosures, curtains or other appropriate means.

§ 4.42. Windows in bathrooms shall provide for privacy.

§ 4.43. Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall be readily openable in case of fire or other emergency.

§ 4.44. Windows in sleeping and dressing areas shall provide for privacy.

Article 10. Living Rooms/Indoor Recreation Space.

§ 4.45. Each living unit shall contain a living room or an area for informal use for relaxation and entertainment. The furnishings shall provide a comfortable, home-like environment that is age appropriate.

§ 4.46. In facilities licensed to care for more than 12 children there shall be indoor recreational space that contains recreational equipment appropriate to the ages and interests of the children in residence. Such indoor recreational space shall be distinct from the living room in each living unit required by § 4.45, but such space shall not be required in every living unit.

Article 11. Study Space.

§ 4.47. Study space shall be provided in facilities serving a school age population and may be assigned in areas used interchangeably for other purposes.

§ 4.48. Study space shall be well lighted, quiet, and equipped with at least tables or desks and chairs.

Article 12. Kitchen and Dining Areas.

§ 4.49. Meals shall be served in areas equipped with sturdy tables and benches or chairs of a size appropriate for the sizes and ages of the residents.

§ 4.50. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals.

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

Article 13.

Laundry Areas.

§ 4.52. If laundry is done at the facility, appropriate space and equipment in good repair shall be provided.

Article 14. Storage.

§ 4.53. Space shall be provided for safe storage of items such as first-aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

Article 15. Staff Quarters.

§ 4.54. A separate (private) bathroom and bedroom shall be provided for staff and their families when staff are required to be in the living unit for 24-hours or more except, that when there are no more than four persons, including staff and family of staff, residing in and/or on duty in the living unit, a private bathroom is not required for staff.

§ 4.55. Off duty staff and members of their families shall not share bedrooms with children in care.

§ 4.56. When 13 or more children reside in one living unit a separate (private) living room shall be provided for child care staff who are required to be in the living unit for 24 hours or more.

§ 4.57. When child care staff are on duty for less than 24 hours, a bed shall be provided for use of each staff member on duty during night hours unless such staff member is required to remain awake.

Article 16. Office Space.

§ 4.58. Space shall be provided for administrative activities including provision for storage of records and materials (See Part II, Article 12).

Article 17. Buildings and Grounds.

§ 4.59. Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas, shall be safe, properly maintained and free of clutter and rubbish.

§ 4.60. There shall be outdoor recreational space appropriately equipped for the children to be served.

Article 18. Equipment and Furnishings.

§ 4.61. All furnishings and equipment shall be safe, easy to clean, and suitable to the ages and number of residents.

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§ 4.62. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which children sleep or participate in programs.

§ 4.63. The facility shall have a written policy governing the possession and use of firearms, pellet guns, air rifles and other weapons on the premises of the facility that shall provide that no firearms, pellet guns, air rifles, or other weapons, shall be permitted on the premises of the facility unless they are:

1. In the possession of licensed security personnel; or
2. Kept under lock and key; or
3. Used under the supervision of a responsible adult in accord with policies and procedures developed by the facility for their lawful and safe use.

Article 19. Housekeeping and Maintenance.

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

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

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

§ 4.67. Adequate provisions shall be made for the collection and legal disposal of garbage and waste materials.

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

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

§ 4.70. A sanitizing agent shall be used in the laundering of bed, bath, table and kitchen linens.

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

Article 20. Farm and Domestic Animals.

§ 4.72. Horses and other animals maintained on the premises shall be quartered at a reasonable distance from sleeping, living, eating, and food preparation areas.

§ 4.73. Stables and corrals shall be located so as to prevent contamination of any water supply.

§ 4.74. Manure shall be removed from stalls and corrals as often as necessary to prevent a fly problem.

§ 4.75. All animals maintained on the premises shall be tested, inoculated and licensed as required by law.

§ 4.76. The premises shall be kept free of stray domestic animals.

§ 4.77. Dogs and other small animal pets and their quarters shall be kept clean.

Article 21. Primitive Campsites.

§ 4.78. The standards in Article 21 through Article 28 are applicable exclusively to the residential environment and equipment at primitive campsites. Permanent buildings and other aspects of the residential environment at a wilderness camp shall comply with the remaining standards in Part IV.

§ 4.79. All campsites shall be well drained and free from depressions in which water may stand.

§ 4.80. Natural sink-holes and other surface collectors of water shall be either drained or filled to prevent the breeding of mosquitoes.

§ 4.81. Campsites shall not be in proximity to conditions that create or are likely to create offensive odors, flies, noise, traffic, or other hazards.

§ 4.82. The campsite shall be free from debris, noxious plants, and uncontrolled weeds or brush.

Article 22. Water in Primitive Campsites.

§ 4.83. Drinking water used at primitive campsites and on hikes away from permanent campsites shall be from a source known to be safe (free of coliform organisms) or shall be rendered safe before use in a manner approved by the Virginia Department of Health.

§ 4.84. An adequate supply of water, under pressure where possible, shall be provided at the cooking area for handwashing, dishwashing, food preparation and drinking.

Article 23. Food Service Sanitation in Primitive Campsites.

§ 4.85. Food shall be obtained from approved sources and shall be properly identified.

§ 4.86. Milk products shall be pasteurized.

§ 4.87. Food and drink shall be maintained and stored so as to prevent contamination and spoilage.

§ 4.88. The handling of food shall be minimized through the use of utensils.

§ 4.89. Fruits and vegetables shall be properly washed

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prior to use.

§ 4.90. Food and food containers shall be covered and stored off the ground and on clean surfaces. Refrigerated food shall also be covered.

§ 4.91. Sugar and other condiments shall be packaged or served in closed dispensers.

§ 4.92. Poisonous and toxic materials shall be properly used, properly identified and stored separately from food.

§ 4.93. Persons with wounds or communicable diseases shall be prohibited from handling food.

§ 4.94. Persons who handle food and eating utensils for the group shall maintain personal cleanliness, shall keep hands clean at all times, and shall thoroughly wash their hands with soap and water after each visit to the toilet.

§ 4.95. Food contact surfaces shall be kept clean.

§ 4.96. All eating utensils and cookware shall be properly stored.

§ 4.97. Disposable or single use dishes, receptacles and utensils shall be properly stored, handled and used only once.

§ 4.98. Eating utensils shall not be stored with food or other materials and substances.

§ 4.99. The use of a common drinking cup shall not be permitted.

§ 4.100. Only food which can be maintained in a wholesome condition with the equipment available shall be used at primitive camps.

§ 4.101. Ice which comes in contact with food or drink shall be obtained from an approved source and shall be made, delivered, stored, handled, and dispensed in a sanitary manner and be free from contamination.

§ 4.102. When ice and ice chests are used, meats and other perishable foods shall not be stored for more than 24-hours.

§ 4.103. Eating utensils and cookware shall be washed and sanitized after each use.

§ 4.104. No dish, receptacle or utensil used in handling food for human consumption shall be used or kept for use if chipped, cracked, broken, damaged or constructed in such a manner as to prevent proper cleaning and sanitizing.

§ 4.105. Solid wastes which are generated in primitive camps shall be disposed of at an approved sanitary landfill or similar disposal facility. Where such facilities are not available, solid wastes shall be disposed of daily by burial

under at least two feet of compacted earth cover in a location which is not subject to inundation by flooding.

Article 24.

Toilet Facilities in Primitive Campsites.

§ 4.106. Where a water supply is not available sanitary type privies or portable toilets shall be provided. All such facilities shall be constructed as required by the Virginia Department of Health.

§ 4.107. All facilities provided for excreta and liquid waste disposal shall be maintained and operated in a sanitary manner to eliminate possible health or pollution hazards, to prevent access of flies and animals to their contents, and to prevent flybreeding.

§ 4.108. Privies shall be located at least 150 feet from a stream, lake or well and at least 75 feet from a sleeping or housing facility.

§ 4.109. Primitive campsites which are not provided with approved permanent toilet facilities shall have a minimum ratio of one toilet seat for every 15 persons.

§ 4.110. If chemical control is used to supplement good sanitation practices, proper pesticides and other chemicals shall be used safely and in strict accordance with label instructions.

Article 25.

Heating in Primitive Campsites.

§ 4.111. All living quarters and service structures at primitive campsites shall be provided with properly installed, operable, heating equipment.

§ 4.112. No portable heaters other than those operated by electricity shall be used.

§ 4.113. Any stoves or other sources of heat utilizing combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases.

§ 4.114. If a solid or liquid fuel stove is used in a room with wooden or other combustible flooring, there shall be a concrete slab, installed metal sheet, or other fireproof materials on the floor under each stove and extending at least 18 inches beyond the perimeter of the base of the stove.

§ 4.115. Any wall or ceiling within 18 inches of a solid or liquid fuel stove or a stove-pipe shall be of fireproof material.

§ 4.116. A vented metal collar or other insulating device shall be installed around a stove pipe or vent passing through a wall, ceiling, floor or roof to prevent melting or combustion.

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§ 4.117. A vented collar, insulating device, or chimney shall extend above the peak of the roof or otherwise be constructed in a manner which allows full draft of smoke.

§ 4.118. When a heating system has automatic controls the controls shall be of the type which will cut off the fuel supply upon the failure or interruption of the flame or ignition, or whenever a predetermined safe temperature or pressure is exceeded.

§ 4.119. All heating equipment shall be maintained and operated in a safe manner to prevent the possibility of fire.

Article 26.

Sleeping Areas and Equipment in Primitive Campsites.

§ 4.120. Bedding shall be clean, dry, and sanitary.

§ 4.121. Bedding shall be adequate to ensure protection and comfort in cold weather.

§ 4.122. If used, sleeping bags shall be fiberfill and rated for O°F.

§ 4.123. Linens shall be changed as often as required for cleanliness and sanitation but not less frequently than once a week.

§ 4.124. Bedwetters shall have their bedding changed or dried as often as it is wet.

§ 4.125. If mattresses are used they shall be clean.

§ 4.126. Mattresses placed in service after July 1, 1981, shall be fire retardant as evidenced by documentation from the manufacturer.

§ 4.127. A mattress cover shall be provided for each mattress.

§ 4.128. Sleeping areas shall be protected by screening or other means to prevent admittance of flies and mosquitos.

§ 4.129. A separate bed, bunk, or cot shall be made available for each person.

Article 27.

Clothing in Primitive Campsites.

§ 4.130. Each child shall be provided with an adequate supply of clean clothing suitable for outdoor living appropriate to the geographic location and season.

§ 4.131. Sturdy, water-resistant, outdoor shoes or boots shall be provided for each child.

§ 4.132. An adequate personal storage area shall be available for each resident.

Article 28.

Fire Prevention in Primitive Campsites.

§ 4.133. With the consultation and approval of the local fire authority a written fire plan shall be established indicating the campsite's fire detection system, fire alarm and evacuation procedures.

§ 4.134. The fire plan shall be implemented through the conduct of fire drills at the campsite at least once each month.

§ 4.135. A record of all fire drills shall be maintained.

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

§ 4.137. An approved 2A 10BC fire extinguisher in operable condition shall be maintained immediately adjacent to the kitchen or food preparation area.

§ 4.138. Fire extinguishers of a 2A 10BC rating shall be maintained so that it is never necessary to travel more than 75 feet to a fire extinguisher from combustion-type heating devices, campfires, or other combustion at the primitive campsite.

PART V. PROGRAMS AND SERVICES.

Article I. Criteria for Admission.

§ 5.1. Each residential facility for children except secure detention facilities shall have written criteria for admission that shall be made available to all parties when placement for a child is being considered. Such criteria shall include:

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

§ 5.2. No child with special needs shall be accepted for placement by a facility unless that facility has a program appropriate to meet those needs or arrangements are made for meeting those needs through community resources unless the child's admission is required by court order.

§ 5.3. The facility shall accept and maintain only those children whose needs are compatible with those services provided through the facility unless a child's admission is required by court order.

§ 5.4. A facility shall not knowingly accept into care a child whose health or behavior shall present a clear and present danger to the child or others residing in the facility unless the facility is licensed or certified to provide such care or a child's admission is required by

court order. (See requirements for certification or special licensure.)

Article 2.

Admission of Blind or Visually Impaired Children.

§ 5.5. When a blind or visually impaired child is admitted to a residential facility for children, the facility shall obtain the services of the staff of the Virginia Department for the Visually Handicapped as consultants for assessment, program planning and prescribed teaching (if not previously obtained).

§ 5.6. Provision of the services of the Department for the Visually Handicapped shall be documented in the child's record.

§ 5.7. If the services of the Department for the Visually Handicapped are not obtained the child's placement shall be considered inappropriate.

Article 3.

Interstate Compact on the Placement of Children.

§ 5.8. No child shall be accepted for placement from outside of the Commonwealth of Virginia without the prior approval of the administrator of the Interstate Compact on the Placement of Children, Virginia Department of Social Services, except that this section shall not apply when the Interstate Compact Relating to Juveniles applies.

§ 5.9. Documentation of approval of the compact administrator shall be retained in the child's record.

Article 4.

Documented Study of the Child.

§ 5.10. Acceptance for care, other than emergency or diagnostic care, shall be based on an evaluation of a documented study of the child except that the requirements of this article shall not apply (i) to temporary care facilities, or (ii) to secure detention facilities.

§ 5.11. If a facility is specifically approved to provide residential respite care, the acceptance by the facility of a child as eligible for respite care is considered admission to the facility. Each individual period of respite care is not considered a separate admission.

§ 5.12. In facilities required to base their acceptance for care on a documented study of the child, at the time of a routine admission or 30 days after an emergency admission each child's record shall contain all of the elements of the documented study.

§ 5.13. The documented study of the child shall include all of the following elements (When information on the child is not available, the reason shall be documented in the child's record):

1. A formal request or written application for admission;
2. Identifying information documented on a face sheet (see § 5.14);
3. Physical examination as specified in § 5.59;
4. Medical history (see § 5.15);
5. A statement, such as a report card, concerning the child's recent scholastic performance, including a current Individual Education Plan (IEP), if applicable;
6. Results of any psychiatric or psychological evaluations of the child, if applicable;
7. Social and developmental summary (see § 5.16);
8. Reason for referral; and
9. Rationale for acceptance.

§ 5.14. Identifying information on a face sheet shall include:

1. Full name of resident;
2. Last known residence;
3. Birthdate;
4. Birthplace;
5. Sex of child;
6. Racial and national background;
7. Child's Social Security number;
8. Religious preference of child or parents;
9. Custody status indicating name and address of legal guardian, if any;
10. Names, addresses and telephone numbers for emergency contacts, parents, guardians or representative of the child-placing agency, as applicable; and
11. Date of admission.

§ 5.15. A medical history shall include:

1. Serious illnesses and chronic conditions of the child's parents and siblings, if known;
2. Past serious illnesses, infectious diseases, serious injuries, and hospitalizations of the child;
3. Psychological, psychiatric and neurological

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examinations, if applicable;

4. Name, address and telephone number of child's former physician(s), when information is available; and

5. Name, address and telephone number of child's former dentist(s), when information is available.

§ 5.16. A social and developmental summary shall include:

1. Description of family structure and relationships;
2. Previous placement history;
3. Current behavioral functioning including strengths, talents, and problems;
4. Documentation of need for care apart from the family setting;
5. Names, address(es), Social Security numbers, and marital status of parents; and
6. Names, ages, and sex of siblings.

Article 5.

Preplacement Activities Documentation.

§ 5.17. At the time of the admission, except emergency admissions, involuntary admissions to security settings or admissions by court order the facility shall provide evidence of its cooperation with the placing agency in preparing the child and the family for the child's admission by documenting the following:

1. A preplacement visit by the child accompanied by a family member, an agency representative or other responsible adult;
2. Preparation through sharing information with the child, the family and the placing agency about the facility, the staff, the children and activities; and
3. Written confirmation of the admission decision to the family or legal guardian and to the placing agency.

Article 6.

Authority to Accept Children.

§ 5.18. Children shall be accepted only by court order or by written placement agreement with parents, legal guardians or other individuals or agencies having legal authority to make such an agreement except that this requirement shall not apply to temporary care facilities when a voluntary admission is made according to Virginia law. (See Part V, Article 9)

Article 7.

Written Placement Agreement.

§ 5.19. At the time of admission the child's record shall contain the written placement agreement from the individual or agency having custody or a copy of the court order, or both, authorizing the child's placement.

§ 5.20. The written placement agreement shall:

1. Give consent for the child's placement in the facility designating the name and physical location of the facility and the name of the child;
2. Recognize the rights of each of the parties involved in the placement clearly defining areas of joint responsibility in order to support positive placement goals;
3. Include financial responsibility, where applicable;
4. Specify the arrangements and procedures for obtaining consent for necessary medical, dental and surgical treatment or hospitalization;
5. Address the matter of all absences from the facility and shall specify the requirements for notifying or obtaining approval of the party having legal responsibility for the child. If there are to be regular and routine overnight visits away from the facility without staff supervision the agreement must state that advance approval of the individual(s) or agency legally responsible for the child is required.

Article 8.

Emergency Admissions.

§ 5.21. Facilities other than temporary care facilities or secure detention facilities receiving children under emergency circumstances shall meet the following requirements:

1. Have written policies and procedures governing such admissions; and
2. Place in each child's record a written request for care or documentation of an oral request for care.

Article 9.

Temporary Care Facility.

§ 5.22. At the time of admission to a temporary care facility the following shall be documented in the child's record:

1. A written request for admission or documentation of an oral request for care;
2. A court order or a written placement agreement (see § 5.18); if the facility is licensed pursuant to Chapter 10 of Title 63.1 of the Code of Virginia as a Child Caring Institution the facility shall obtain and document verbal approval for placement from the legal guardian within eight hours of the child's arrival.

at the facility and a written placement agreement shall be completed and signed by the legal guardian and facility representative within 24 hours of the child's arrival or by the end of the next business day after the child's arrival, whichever is later ;

3. Identifying information documented on a face sheet which shall include:

- a. Full name of child,
- b. Birthdate,
- c. Sex of child,
- d. Racial/ethnic background,
- e. Last known address,
- f. Names and addresses of persons or agencies to contact in case of emergency,
- g. Date of admission, and
- h. Child's social security number;

4. The child's health status including:

- a. A statement of known or obvious illnesses and handicapping conditions;
- b. A statement of medications currently being taken;
- c. A statement of the child's general health status; and
- d. Name, address and telephone number of the child's physician, if known; and

5. A statement describing the child's need for immediate temporary care.

§ 5.23. When identifying information is not available the reason shall be documented on the face sheet.

Article 10. Discharge.

§ 5.24. If a facility is specifically approved to provide residential respite care a child will be discharged when the child and his parents/guardians no longer intend to use the facility's services.

§ 5.25. All facilities, except for secure detention facilities, shall have written criteria for termination of care that shall include:

1. Criteria for a child's completion of the program as described for compliance with § 2.5; and
2. Conditions under which a child may be discharged

before completing the program.

§ 5.26. Except when discharge is ordered by a court of competent jurisdiction prior to the planned discharge date each child's record shall contain the following:

1. Documentation that the termination of care has been planned with the parent/guardian/child-placing agency and with the child; and
2. A written discharge plan and documentation that it was prepared and discussed with the child, when appropriate, prior to the child's discharge. The plan shall contain at least:
 - a. An assessment of the child's continuing needs; and
 - b. A recommended plan for services in the youth's new environment.

§ 5.27. No later than 10 days after any discharge, except those from secure detention, the child's record shall contain the following information:

1. Date of discharge;
2. Reason for discharge;
3. Documentation that the reason for discharge was discussed with the parent/guardian/child-placing agency and, when appropriate, with the child, except that this requirement does not apply to court ordered discharges;
4. Forwarding address of the child, if known;
5. Name and address of legally responsible party to whom discharge was made; and
6. In cases of interstate placement documentation that the Administrator of the Interstate Compact on the Placement of Children was notified of the discharge.

§ 5.28. A comprehensive discharge summary shall be placed in the child's record no later than 30 days after discharge except in a secure detention facility.

§ 5.29. A comprehensive discharge summary shall include:

1. Length of a child's residence at the time of discharge;
2. The name of the child's designated case coordinator, if assigned;
3. Information concerning new or currently prescribed medication including when and why it was prescribed, the dosage, and whether it is to be continued;
4. Summary of the child's overall progress during

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placement;

5. Summary of family contracts during placement, if any; and

6. Reasons for discharge.

§ 5.30. Except in secure detention, children shall be discharged only to the legally responsible party from whom they were accepted except (i) in cases where legal responsibility has been transferred to another person or agency during the period of the child's stay in the facility or (ii) in cases where a child committed pursuant to a court order is given a direct discharge by the agents of the appropriate State Board in accordance with law and policy.

Article 11.

Placement of Children Outside the Facility.

§ 5.31. Except in a secure detention facility the facility shall not place a child away from the facility, including in staff residences regardless of location, without first having obtained a Child Placing Agency license from the Department of Social Services. Temporary absences for the purposes of medical care, attendance at day school, or vacations shall not be deemed to be placements.

Article 12. Service Plan.

§ 5.32. A written individualized service plan, based on information derived from the documented study of the child and other assessments made by the facility, shall be developed for each child, within 30 days of admission and placed in the child's master file except that the requirements of this article do not apply (i) to secure detention facilities or (ii) to temporary care facilities.

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

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

§ 5.34. The degree of participation, or lack thereof, of each of the parties listed in § 5.33 in developing the service plan shall be documented in the child's record.

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

1. A statement of the resident's current level of functioning including strengths and weaknesses, and

corresponding educational, residential and treatment/training needs;

2. A statement of goals and objectives meeting the above identified needs;

3. A statement of services to be rendered and frequency of services to accomplish the above goals and objectives;

4. A statement identifying the individual(s) or organization(s) that will provide the services specified in the statement of services;

5. A statement identifying the individual(s) delegated the responsibility for the overall coordination and integration of the services specified in the plan;

6. A statement of the timetable for the accomplishment of the resident's goals and objectives; and

7. The estimated length of the resident's stay.

Article 13. Quarterly Progress Reports.

§ 5.36. For all facilities except secure detention facilities written progress summary reports completed at least every 90 days shall be included in each child's record and shall include:

1. Reports of significant incidents, both positive and negative;
2. Reports of visits with the family;
3. Changes in the child's family situation;
4. Progress made toward the goals and objectives described in the Service Plan required by § 5.32;
5. School reports;
6. Discipline problems in the facility and the community;
7. Summary of the child's social, emotional, and physical development during the previous three months including a listing of any specialized services and on-going medications prescribed;
8. Reevaluation of the placement including tentative discharge plans.

Article 14. Annual Service Plan Review.

§ 5.37. For all facilities except secure detention facilities at least annually the following parties shall participate, unless clearly inappropriate, in formally reviewing an

rewriting the service plan based on the child's current level of functioning and needs:

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

§ 5.38. The degree of participation, or lack thereof, of each of the parties listed in § 5.37 in reviewing and rewriting the service plan shall be documented in the child's record except that this section does not apply to secure detention facilities.

§ 5.39. Staff responsible for the daily implementation of the child's individual service plan shall be represented on the staff team that evaluates adjustment and progress and makes plans for individual children except that this section does not apply to secure detention facilities.

§ 5.40. Staff responsible for daily implementation of the child's individualized service plan shall be able to describe resident behavior in terms of the objectives in the service plan except that this section does not apply to secure detention facilities.

Article 15.

Service Plan for Temporary Care Facilities.

§ 5.41. An individualized service plan including the elements required by § 5.42 shall be developed for each child admitted to a temporary care facility and placed in the child's master file within 72 hours of admission.

§ 5.42. The individualized service plan shall include:

1. The child's description of his situation/problem;
2. Documentation of contact with the child's parent or guardian to obtain his description of the child's situation/problem;
3. The facility staff's assessment of the child's situation/problem;
4. A plan of action including:
 - a. Services to be provided,
 - b. Activities to be provided,
 - c. Who is to provide services and activities, and
 - d. When services and activities are to be provided;
5. The anticipated date of discharge, and

6. An assessment of the child's continuing need for services.

Article 16.

Counseling and Social Services.

§ 5.43. For all facilities except secure detention facilities the program of the facility shall be designed to provide counseling and social services which address needs in the following areas:

1. Helping the child and the parents or guardian to understand the effects on the child of separation from the family and the effect of group living;
2. Assisting the child and the family in maintaining their relationships and planning for the future care of the child;
3. Utilizing appropriate community resources in providing services and maintaining contacts with such resources;
4. Helping the child with problems affecting the ability to have satisfying personal relationships and use of the capacity for growth;
5. Conferring with the child care staff to help them understand the child's needs in order to promote adjustment to group living; and
6. Working with the child and with the family or any placing agency that may be involved in planning for the child's future and in preparing the child for return home, for independent living, or for other residential care.

§ 5.44. The provision of counseling and social services shall be documented in each child's record except that this section does not apply to secure detention facilities.

§ 5.45. For all facilities, except secure detention facilities, counseling and/or other social services consistent with the goals of the Service Plan shall be provided to meet the specific needs of each child in one of the following ways:

1. By a qualified staff member;
2. By service staff of the agency that placed the child provided such staff is available on an as needed basis rather than on a limited basis (e.g. quarterly or semiannually);
3. On a contract basis by a professional child and family service worker licensed to practice in the Commonwealth of Virginia, other state(s) or the District of Columbia; or
4. On a contract basis by a professional child and family service worker who is working under the auspices of a public or private, nonprofit agency

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sponsored by a community based group.

Article 17. Residential Services.

§ 5.46. There shall be evidence of a structured program of care that is designed to:

1. Meet the child's physical needs;
2. Provide protection, guidance and supervision;
3. Promote a sense of security and self-worth; and
4. Meet the objectives of any required service plan.

§ 5.47. There shall be evidence of a structured daily routine that is designed to assure the delivery of program services.

§ 5.48. A daily activity log shall be maintained as a means of informing staff of significant happenings or problems experienced by children including health and dental complaints or injuries.

§ 5.49. Entries in the daily activity log shall be signed or initialed by the person making the entry.

§ 5.50. Routines shall be planned to assure that each child shall have the amount of sleep and rest appropriate for his age and physical condition.

§ 5.51. Staff shall provide daily monitoring and supervision, and instruction, as needed, to promote the personal hygiene of the children.

Article 18. Health Care Procedures.

§ 5.52. Facilities shall have written procedures for the prompt provision of:

1. Medical and dental services for health problems identified at admission;
2. Routine ongoing and follow-up medical and dental services after admission; and
3. Emergency services for each child as provided by statute or by agreement with the child's parent(s) or legal guardian, or both.

§ 5.53. For all facilities except temporary care facilities written information concerning each child shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician or dentist, or both, to be notified;
2. Name, address, and telephone number of relative or

other person to be notified;

3. Medical insurance company name and policy number or Medicaid number except that this requirement does not apply to secure detention facilities;

4. Information concerning:

- a. Use of medication,
- b. Medication allergies,
- c. Any history of substance abuse except that this requirement does not apply to secure detention, and
- d. significant medical problems; and

5. Written permission for emergency medical or dental care or a procedure and contacts for obtaining consent for emergency medical or dental care except that this section does not apply to secure detention facilities.

§ 5.54. Facilities specifically approved to provide respite care shall update the information required by § 5.53 at the time of each individual stay at the facility.

Article 19. Physical Examinations.

§ 5.55. Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the facility, except that (i) the report of an examination within the preceding 12 months shall be acceptable if a child transfers from one residential facility licensed or certified by a state agency to another, (ii) a physical examination shall be conducted within 30 days after admission if a child is admitted on an emergency basis and a report of physical examination is not available, and (iii) this section does not apply if a child is admitted to a secure detention facility or to a temporary care facility.

§ 5.56. Following the initial examination, each child shall have a physical examination annually except that this section does not apply to (i) security detention facilities, or (ii) temporary care facilities.

§ 5.57. In all facilities except (i) secure detention facilities, and (ii) temporary care facilities additional or follow-up examination and treatment shall be required when:

1. Prescribed by the examining physician; or
2. Symptoms indicate the need for an examination or treatment by a physician.

§ 5.58. Each physical examination report shall be included in the child's record.

§ 5.59. For all facilities except (i) secure detention facilities and (ii) temporary care facilities each physical examination report shall include:

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

§ 5.60. In all facilities except (i) secure detention facilities and (ii) temporary care facilities a child with a communicable disease, whose best interests would not be served by prohibiting admission, may be admitted only after a licensed physician certifies that:

1. The facility is capable of providing care to the child without jeopardizing other children in care and staff; and
2. The facility is aware of the required treatment for the child and procedures to protect other children in care and staff.

§ 5.61. Recommendations for follow-up medical observation and treatment shall be carried out at the recommended intervals except that this section does not apply to (i) secure detention facilities or (ii) temporary care facilities.

§ 5.62. Except for (i) secure detention facilities, (ii) temporary care facilities, and (iii) respite care facilities, each facility shall provide written evidence of:

1. Annual examinations by a licensed dentist; and
2. Follow-up dental care as recommended by the dentist or as indicated by the needs of each child.

§ 5.63. Each child's record shall include notations of health and dental complaints and injuries showing symptoms and treatment given.

§ 5.64. Each child's record shall include a current record of ongoing psychiatric or other mental health treatment and reports, if applicable.

§ 5.65. Provision shall be made for suitable isolation of any child suspected of having a communicable disease.

§ 5.66. A well stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical emergencies.

Article 20. Medication.

§ 5.67. All medication shall be securely locked and properly labeled.

§ 5.68. Medication shall be delivered only by staff authorized by the director to do so.

§ 5.69. Staff authorized to deliver medication shall be informed of any known side effects of the medication and the symptoms of the effect.

§ 5.70. A program of medication shall be instituted for a specific child only when prescribed in writing by a licensed physician.

§ 5.71. Medications that are classified as "controlled substances" as defined in § 54.1-3401 of the Code of Virginia shall only be obtained from a licensed physician or from a licensed pharmacist upon individual prescription of a licensed physician.

§ 5.72. A daily log shall be maintained of all medicines received by the individual child.

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

§ 5.74. The telephone number of a Regional Poison Control Center shall be posted on or next to at least one nonpay telephone in each building in which children sleep or participate in programs.

§ 5.75. At least one 30cc bottle of syrup of Ipecac shall be available on the premises of the facility for use at the direction of the Poison Control Center or physician.

Article 21. Nutrition.

§ 5.76. Provisions shall be made for each child to have three nutritionally balanced meals daily.

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

§ 5.78. Any deviation(s) from the menu shall be noted.

§ 5.79. The menus including any deviations shall be kept

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on file for at least six months.

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

§ 5.81. The quantity of food served shall be adequate for the ages of the children in care.

§ 5.82. Special diets shall be provided when prescribed by a physician.

§ 5.83. The established religious dietary practices of the child shall be observed.

§ 5.84. Staff who eat in the presence of the children shall be served the same meals.

§ 5.85. There shall be no more than 15 hours between the evening meal and breakfast the following day.

Article 22.

Discipline and Management of Resident Behavior.

§ 5.86. The facility shall have written disciplinary and behavior management policies, including written rules of conduct, appropriate to the age and developmental level of the children in care.

§ 5.87. Disciplinary and behavior management policies and rules of conduct shall be provided to children, families and referral agencies prior to admission except that for court ordered or emergency admissions this information shall be provided within 72 hours after admission.

§ 5.88. There shall be written procedures for documenting and monitoring use of the disciplinary and behavior management policies.

§ 5.89. Control, discipline and behavior management shall be the responsibility of the staff.

Article 23.

Confinement Procedures.

§ 5.90. When a child is confined to his own room as a means of discipline, the room shall not be locked nor the door secured in any manner that will prohibit the child from opening it, except that this section does not apply to secure custody facilities such as learning centers and secure detention facilities.

§ 5.91. Any child confined to his own room shall be able to communicate with staff.

§ 5.92. There shall be a staff check on the room at least every 30 minutes.

§ 5.93. The use of confinement procedures shall be documented.

Article 24.

Prohibitions.

§ 5.94. The following actions are prohibited:

1. Deprivation of drinking water or food necessary to meet a client's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the client's record;

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

3. Denial of contacts and visits with family or legal guardian except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;

4. Delay or withholding of incoming or outgoing mail except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;

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

6. Corporal punishment except as permitted in a public school or a school maintained by the state pursuant to § 22.1-280 of the Code of Virginia ;

7. Subjection to unsanitary living conditions;

8. Deprivation of opportunities for bathing or access to toilet facilities except as ordered by a licensed physician for a legitimate medical purpose and documented in the client's record;

9. Deprivation of health care including counseling;

10. Intrusive aversive therapy except as permitted by other applicable state regulations;

11. Application of aversive stimuli except as part of an intrusive aversive therapy plan approved pursuant to other applicable state regulations;

12. Administration of laxatives, enemas, or emetics except as ordered by a licensed physician for a legitimate medical purpose and documented in the client's record;

13. Deprivation of opportunities for sleep or rest except as ordered by a licensed physician for a legitimate medical purpose and documented in the client's record; and

14. Denial of contacts and visits with advocates employed by the Department of Mental Health, Mental Retardation and Substance Abuse Services to implement § 37.1-84.1 of the Code of Virginia and

advocates employed by the Department for Rights of the Disabled to implement §§ 51.5-36 through 51.5-39 of the Code of Virginia, PL 99-319 § 201.42 USC 10841, and PL 98-527, 42 USC § 6000 et seq.

Article 25. Chemical or Mechanical Restraints.

§ 5.95. The use of mechanical or chemical restraints is prohibited unless use is specifically permitted by a special license or certification module.

Article 26. Physical Restraint.

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

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

§ 5.98. If the use of physical restraint or the use of other measures permitted by a certification module is unsuccessful in calming and moderating the child's behavior the child's physician, the rescue squad, the police or other emergency resource shall be contacted for assistance.

§ 5.99. Any application of physical restraint shall be fully documented in the child's record as to date, time, staff involved, circumstances, reasons for use of physical restraint, and extent of physical restraint used.

Article 27. Seclusion.

§ 5.100. Secluding a child in a room with the door secured in any manner that will prohibit the child from opening it shall be prohibited unless it is specifically permitted by a special license or certification module.

Article 28. Timeout Procedures.

§ 5.101. Timeout procedures may only be used at times and under conditions specified in the facility's disciplinary or behavior management policies.

§ 5.102. When a child is placed in a timeout room, the room shall not be locked nor the door secured in any manner that will prohibit the child from opening it.

§ 5.103. Any child in a timeout room shall be able to communicate with staff.

§ 5.104. The use of timeout procedures shall not be used for periods longer than 30 consecutive minutes.

§ 5.105. Written documentation shall be maintained verifying that each child placed in a timeout room has been checked by staff at least every 15 minutes.

§ 5.106. A child placed in a timeout room shall have bathroom privileges according to need.

§ 5.107. If a meal is scheduled while a child is in timeout, the meal shall be provided to the child at the end of the timeout procedure.

Article 29. Education.

§ 5.108. Each child of compulsory school attendance age shall be enrolled in an appropriate educational program as provided in the Code of Virginia.

§ 5.109. The facility shall provide educational guidance and counseling for each child in selection of courses and shall ensure that education is an integral part of the child's total program.

§ 5.110. Facilities operating educational programs for handicapped children shall operate those programs in compliance with applicable state and federal regulations.

§ 5.111. When a handicapped child has been placed in a residential facility without the knowledge of school division personnel in the child's home locality, the facility shall contact the superintendent of public schools in that locality in order to effect compliance with applicable state and federal requirements relative to the education of handicapped children.

§ 5.112. When a facility has an academic or vocational program that is not certified or approved by the Department of Education, teachers in the program shall provide evidence that they meet the qualifications that are required in order to teach those specific subjects in the public schools.

Article 30. Religion.

§ 5.113. The facility shall have written policies regarding the opportunities for the children to participate in religious activities.

§ 5.114. The facility's policies on religious participation shall be available to the child and any individual or agency considering the placement of a child in the facility.

§ 5.115. Children shall not be coerced to participate in religious activities.

Article 31. Recreation.

§ 5.116. There shall be a written description of the recreation program for the facility showing activities which

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are consistent with the facility's total program and with the ages, developmental levels, interests, and needs of the children and which includes:

1. Opportunities for individual and group activities;
2. Free time for children to pursue personal interests which shall be in addition to a formal recreation program;
3. Except in secure detention facilities, use of available community recreational resources and facilities;
4. Scheduling of activities so that they do not conflict with meals, religious services, educational programs or other regular events; and
5. Regularly scheduled indoor and outdoor recreational activities that are specifically structured to develop skills and attitudes (e.g., cooperation, acceptance of losing, etc.).

§ 5.117. The recreational program provided indoors, outdoors (both on and off the premises), and on field trips shall be directed and supervised by adults who are knowledgeable in the safeguards required for the specific activities.

§ 5.118. Opportunities shall be provided for coeducational activities appropriate to the ages and developmental levels of the children.

Article 32. Community Relationships.

§ 5.119. Opportunities shall be provided for the children in a group living situation to participate in activities and to utilize resources in the community except that this section does not apply to secure detention facilities.

§ 5.120. Community interest in children and efforts on their behalf (public parties, entertainment, invitations to visit families) shall be carefully evaluated to ascertain that these are in the best interest of the children.

Article 33. Clothing.

§ 5.121. Provisions shall be made for each child to have his own adequate supply of clean, comfortable, well-fitting clothes and shoes for indoor and outdoor wear.

§ 5.122. Clothes and shoes shall be similar in style to those generally worn by children of the same age in the community who are engaged in similar activities.

§ 5.123. Children shall have the opportunity to participate in the selection of their clothing except that this section does not apply to secure detention facilities.

§ 5.124. Each child's clothing shall be inventoried and reviewed at regular intervals to assure repair or replacement as needed.

§ 5.125. The child shall be allowed to take personal clothing when the child leaves the facility.

Article 34. Allowances and Spending Money.

§ 5.126. The facility shall provide opportunities appropriate to the ages and developmental levels of the children for learning the value and use of money through earning, budgeting, spending, giving and saving except that this section does not apply to secure detention facilities.

§ 5.127. There shall be a written policy regarding allowances except that this section does not apply to secure detention facilities.

§ 5.128. The written policy regarding allowances shall be made available to parents or guardians, or both, at the time of admission except that this section does not apply to secure detention facilities.

§ 5.129. The facility shall provide for safekeeping and for record keeping of any money that belongs to children.

Article 35. Work and Employment.

§ 5.130. Any assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the child.

§ 5.131. Chores shall not interfere with regular school programs, study periods, meals or sleep.

§ 5.132. Work assignments or employment outside the facility including reasonable rates of payment shall be approved by the program director with the knowledge and consent of the parent, guardian or placing agency except that this section does not apply to secure detention facilities.

§ 5.133. The facility shall ensure that any child employed inside or outside the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with all applicable laws governing labor and employment except that this section does not apply to secure detention facilities.

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

Article 36. Visitation at the Facility and to the Child's Home.

§ 5.135. The facility shall provide written visitation policies and procedures permitting reasonable visiting privileges

and flexible visiting hours.

§ 5.136. Copies of the written visitation policies and procedures shall be made available to the parents, guardians, the child and other interested persons important to the child no later than the time of admission except that when parents or guardians do not participate in the admission process, visitation policies and procedures shall be mailed to them within 12 hours after admission.

Article 37. Use of Vehicles and Power Equipment.

§ 5.137. Any transportation provided for or used by children shall be in compliance with state, federal or international laws relating to:

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

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

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

Article 38. Reports to Court.

§ 5.140. When the facility has received legal custody of a child pursuant to §§ 16.1-279 A or 16.1-279 B of the Code of Virginia copies of any foster care plans (required by §§ 16.1-281 and 16.1-282 of the Code of Virginia) submitted to the court shall be filed in the child's record except that this section does not apply to secure detention facilities.

Article 39. Emergency Reports.

§ 5.141. Any serious incident, accident or injury to the child; any overnight absence from the facility without permission; any runaway; or any other unexplained absence shall be reported to the parent/guardian/placing agency within 24 hours.

§ 5.142. The child's record shall contain:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name of the person who made the report to the parent/guardian or placing agency; and

6. The name of the person to whom the report was made.

Article 40. Suspected Child Abuse or Neglect.

§ 5.143. Any case of suspected child abuse or neglect shall be reported immediately to the local department of public welfare/social services as required by § 63.1-248.3 of the Code of Virginia.

§ 5.144. The child's record shall include:

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

PART VI. DISASTER OR EMERGENCY PLANS.

Article 1. Procedures for Meeting Emergencies.

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

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuation including alternate housing.

Article 2. Written Fire Plan.

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

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

1. Sounding of fire alarms;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, evacuation of residents with special needs, and checking to ensure complete evacuation of the building(s);

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3. A system for alerting fire fighting authorities;
4. Use, maintenance and operation of fire fighting and fire warning equipment;
5. Fire containment procedures including closing of fire doors, fire windows or other fire barriers;
6. Posting of floor plans showing primary and secondary means of egress; and
7. Other special procedures developed with the local fire authority.

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

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

§ 6.6. The procedures and responsibilities reflected in the written fire plan shall be made known to all staff and residents.

Article 3. Posting of Fire Emergency Phone Number.

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

Article 4. Portable Fire Extinguishers.

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

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

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

§ 6.11. Each fire extinguisher shall be checked by properly oriented facility staff at least once each month to

ensure that the extinguisher is available and appears to be in operable condition. A record of these checks shall be maintained for at least two years and shall include the date and initials of the person making the inspection.

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

Article 5. Smoke Alarms.

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

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

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

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

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

Article 6. Fire Drills.

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

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

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

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

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

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

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

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

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

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

1. Ensure that fire drills are conducted at the times and intervals required by these standards and the

facility's written fire plan;

2. Review fire drill reports to identify problems in the conduct of fire drills and in the implementation of the requirements of the written fire plan;

3. Consult with the local fire authority, as needed, and plan, implement and document training or other actions taken to remedy any problems found in the implementation of the procedures required by the written fire plan; and

4. Consult and cooperate with the local fire authority to plan and implement an educational program for facility staff and residents on topics in fire prevention and fire safety.

Article 7.

Staff Training in Fire Procedures.

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

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

Article 8.

"Sighted Guide" Training for Emergency Use.

§ 6.27. When a blind or visually impaired child is admitted the facility shall obtain the services of an orientation and mobility specialist from the Department of Visually Handicapped to provide "sighted guide" training for use in emergencies except that this requirement shall not apply to secure detention facilities.

§ 6.28. "Sighted guide" training for use in emergencies shall be required of all personnel having responsibility for supervision of a blind or visually handicapped child except that this requirement shall not apply to secure detention facilities.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Title of Regulation: VR 672-50-11. Regulations for the Certification of Recycling Machinery and Equipment for Tax Exemption Purposes.

Statutory Authority: §§ 10.1-1400, 10.1-1411 and 58.1-3661 of the Code of Virginia.

Effective Date: October 9, 1991.

Summary:

This regulation establishes criteria for recycling machinery and equipment. The regulation allows

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owners of machinery and equipment used primarily to process recyclable material into a production process to seek a recycling certification from the Virginia Department of Waste Management. Once certified, the owner may apply for a local personal property tax exemption offered for such recycling machinery and equipment.

NOTICE: As provided in § 9-6.14:22 of the Code of Virginia, this regulation is not being republished. The regulation was adopted as it was proposed in 7:18 V.A.R. 2637-2642 June 3, 1991. The reporting form (DWM 50-11) to be used in administering the final regulation was simplified as recommended by the Virginia Department of Taxation. Part III, lines 3-6, and the associated instructions were deleted from the form.

Form DWM 50-11
RECYCLING EQUIPMENT CERTIFICATION

Application for _____ State tax credit _____ Local Tax Exemption (See Instructions)

Part I

Name(s) as shown on Virginia return	Account number
Street	
City, state and ZIP code	

Part II

Name of facility where equipment is located
Street
City, state and ZIP code
Detailed description of equipment and its intended use (attach drawings, brochures, etc., as appropriate)

Part III

1. Total purchase price (Date of purchase _____)	
2. Multiply line 1 by 10%	

I certify that the above information is true, correct and complete and that the equipment identified is to be used primarily for the processing of recyclable materials as defined in the regulations (VR-672-50-11).

Signature of taxpayer or officer _____ Title _____ Date _____

Department of Waste Management Certification. Based on the above information and the statement of the applicant of the equipment, I hereby certify the identified equipment qualifies as integral to the recycling process as defined in the regulations (VR-672-50-11).

Signature _____ Director, Department of Waste Management _____ Date _____

INSTRUCTIONS

GENERAL

For tax years beginning on and after January 1, 1991 but before January 1, 1993 individuals and corporations may claim credit for the purchase of machinery and equipment used in facilities which manufacture, process, compound or produce recycled items of tangible personal property (Code of Virginia, Chapter 3, Article 3, Sections 58.1-337 and 58.1-445.1). The credit is 10% of the purchase price, but cannot exceed 40% of the Virginia income tax in the year claimed. This is a nonrefundable credit; however, if the allowable credit exceeds the Virginia tax liability in the first year claimed, the unused credit may be carried forward up to 5 taxable years until the credit is exhausted.

The equipment must be certified by the Department of Waste Management as integral to the recycling process as defined by its Standards for the Certification of Recycling Machinery and Equipment and Regulation VR-672-50-11. Once certified, the equipment may also qualify for a local tax exemption based on current value assessment by the taxing authority. Contact your local governing body for information.

Part I

Enter the name and address of the individual or company as it appears on the Virginia income tax return.

Part II

Enter the name and the physical address of the facility where the machinery and equipment are located. Provide a detailed description of the equipment and its intended use in the facility with drawings, specifications and operating parameters.

Part III (If applying for only local tax exemption, complete only line 1.)

Line 1. Enter the total purchase price of the machinery and equipment.

Line 2. Enter 10% of the purchase price. Line 1 multiplied by 0.10.

Attach copies of receipts and/or invoices verifying the purchase price paid for the machinery and equipment. Mail the form and attachments to the address below.

Department of Waste Management
 Attention: Equipment Certification Officer
 11th Floor, Monroe Building
 100 North 14th Street
 Richmond, Virginia 23219

Upon certification the form and attachments will be returned to you. The form and receipts must be attached to your Virginia income tax return when filed with the Department of Taxation.

For assistance call (804) 371-0044.

TDD (804) 371-8737.

WRM 50-11 (2-90)

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DEPARTMENT OF YOUTH AND FAMILY SERVICES (STATE BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Youth and Family Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 63.1-217, 66-10, and 66-24 of the Code of Virginia.

Effective Date: October 9, 1991.

Summary:

Under the current definitions and exceptions in the Code of Virginia the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services are responsible for the regulation of public and private residential facilities providing care or treatment to children. The regulation is designed to assure that adequate care, treatment, and education are provided by residential facilities for children.

The revisions amend the requirements of § 4.3 of the Interdepartmental Standards to rectify dissonance with recent revisions to § 27.97 et seq. of the Code of Virginia. Sections 27.97 et seq. allow local governing body adoption of the "Code." Localities which adopt the code are responsible for its enforcement. The Office of the State Fire Marshal is responsible for inspections and enforcement in localities which do not adopt the code. Many localities have adopted the "Virginia Statewide Fire Prevention Code" and local fire authorities are inspecting some facilities previously inspected by the Office of the State Fire Marshal. The Office of the State Fire Marshal is conducting inspections of some facilities previously inspected by local fire authorities.

The revisions also amend the requirements of § 5.22 of the Interdepartmental Standards to rectify

dissonance with recent revisions to § 63.1-204 of the Code of Virginia. Revisions to § 63.1-204 establish more flexible admissions requirements for temporary care facilities regulated by the Department of Social Services. The revisions provide temporary care facilities eight hours following the child's arrival at the facility to obtain and document verbal approval for placement from the legal guardian. The revisions also provide temporary care facilities 24 hours following the child's arrival or until the end of the next business day after the child's arrival, whichever is later, to obtain a written placement agreement signed by the legal guardian and facility representative.

NOTICE: Please refer to the Department of Social Services in the Final Regulations section of this issue of the Virginia Register of Regulations for the publication of "Standards for Interdepartmental Regulations of Residential Facilities for Children."

EMERGENCY REGULATIONS

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

Title of Regulation: VR 240-04-2. Forfeited Drug Asset Sharing Program.

Statutory Authority: §§ 19.2-386.4, 19.2-386.10 and 19.2-386.14 of the Code of Virginia.

Effective Dates: August 8, 1991 through August 7, 1992.

VR 240-04-2. Forfeited Drug Asset Sharing Program.

Pursuant to the provisions of §§ 19.2-386.4, 386.10, and 386.14, the Criminal Justice Services Board hereby promulgates the following regulations for the Forfeited Drug Asset Sharing Program:

§ 1. Definitions:

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

"Agency" means any federal, state or local agency or office that directly participated in the investigation or other law-enforcement activity which led, directly or indirectly to the seizure and forfeiture.

"Agency administrator" means any chief of police, sheriff, Commonwealth Attorney or agency head of a federal, state or local agency, or office.

"Asset" means any property or interest in property, whether tangible or intangible, real or personal.

"Board" means the Criminal Justice Services Board.

"Department" or "DCJS" means the Department of Criminal Justice Services.

"Designated Seizing Agency" means the agency or office which initiates the seizure, or which retains possession of the seized property. Designated seizing agency may include the agency chosen by mutual decision of the participating agencies.

"Director" means the chief administrative officer of the Department of Criminal Justice Services.

"In-kind" in this context means the return of the actual forfeited property to a seizing agency, rather than the proceeds of sale of the property.

§ 2. Preamble:

The following emergency regulations are required in order to implement the provisions of sections 19.2-386.4, 19.2-386.10 and 19.2-386.14 of Code of Virginia which established certain procedures for the reporting and disposition of forfeited drug assets. These sections call for

the Department of Criminal Justice Services to administer the forfeited drug asset sharing program on behalf of Commonwealth with final approval by the Criminal Justice Services Board. This new law takes effect July 1, 1991.

§ 3. Applicability:

The following regulations apply to all agencies or offices, in so far as they participate in the seizure and forfeiture of drug assets under Virginia law.

§ 4. Asset Seizure:

A. If an asset(s) is seized by law enforcement due to violation of § 18.2-249, and with the intention of retaining any forfeited proceeds for law enforcement use, pursuant to Chapter 22.1 of Title 19.2, this seizure must be reported to the Department.

B. The agency administrator of the designated seizing agency will file a DCJS Form 998, Asset Seizure Reporting Form within twenty one (21) days of seizure. This form calls for detailed information regarding the description and location of property. If more than one agency participates in the seizure, the names and addresses and agency administrators shall be reported to the Department on Form 998.

§ 5. Report of Proceeds, Costs and Asset Sharing Agreements.

Once the court has ordered disposition of the forfeited asset(s) pursuant to § 19.2-386.11, the designated seizing agency will file a DCJS Form 999, Seized Property Disposition/Sharing Decision Form with the Department. This form should be accompanied by:

1. Copy of the court order.
2. Petition for In-Kind Property
3. List of Costs Incurred to Manage Seized Assets
4. Cashier's Check or Money Order in the amount of the Net Forfeited Proceeds (total proceeds minus amount for costs incurred that are allowable under 19.2-386.12 or other costs if approved by the court) made payable to: Treasurer of Virginia

§ 6. Remission of Innocent Property Interests

1. Petitions for remission by innocent property holders or innocent lienholders shall be filed with the Department of Criminal Justice Services, at 805 East Broad Street, Richmond, VA 23219.

Petitions for remission shall contain such information as will allow the Department to identify the forfeiture involved, including the name of the Circuit Court from which the forfeiture was ordered. The petition shall clearly and specifically allege the grounds upon which

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petitioner seeks remission, and the statutory basis for relief.

§ 7. Valuation of "in-kind" property for purposes of distribution.

1. Valuation of "in-kind" property shall be done in all cases of distribution upon which there is not agreement among participating jurisdictions.

2. Evidence of value shall be submitted by the agency seeking possession of the property, and may be submitted by any participating agency.

3. Evidence of value may be submitted in any form, including appraisals, assessments, references to "book" value, etc, as the submitting agency deems necessary to establish the Fair Market Value (FMV) of the property.

4. Final determination of Fair Market Value shall be made by the Criminal Justice Services Board based upon a review of all evidence of value presented to it.

5. The cost of an appraisal will be recognized as a cost incident to the custody, preservation and management of the property, and may be reimbursed to the agency submitting the appraisal from total forfeiture funds prior to the distribution of net proceeds. If there are not proceeds to be distributed, the cost of appraisal will not be reimbursed.

§ 8. Distribution Procedures For "In-Kind Property, and For Proceeds.

A. Distribution of "in-kind" property when all parties are in agreement.

1. The submission of a DCJS Form 999, with all attachments, including the agreement between the law enforcement agencies shall constitute a petition for return of in-kind property when there is agreement between the agencies as to the disposition of such in-kind property. These petitions shall be treated by the Department as approved, provided that the clear and reasonable law enforcement need for the forfeited property has been demonstrated (Section 19.2-386.14 C (ii) in the petition.

2. If the Department cannot ascertain the "clear and reasonable law enforcement need for the forfeited property", it may seek such additional information as will allow it to make the determination.

3. If the Department is unable to determine the "clear and reasonable law enforcement need for the forfeited property", it shall submit the question to the next regularly scheduled meeting of the Criminal Justice Services Board for determination.

B. Distribution of disputed "in-kind" property.

1. Any participating agency or office may petition the Department for the return of any forfeited motor vehicle, boat or aircraft, or other tangible personal property within ten (10) days of the court's finding of compliance with Section 19.2-386.14 A. (iii).

2. The petition for return of "in-kind" property shall be on the petitioning agency's letterhead, and shall contain the name, address, telephone number, and name of the chief administrative officer, of all other participating jurisdictions known to have been involved in the seizure and forfeiture.

3. Petitions shall be filed with the Department at 805 East Broad Street, Richmond, VA 23219.

4. Upon receipt of a disputed petition for distribution of "in-kind" property, the Department shall notify the Chairman of the Criminal Justice Services Board, and the process for resolution contained in the section of these regulations for Joint Agency Sharing of Forfeited Assets shall be implemented. This shall include the mailing of notices for responsive petitions.

5. Findings by the committee or the Board shall include without limitation the following:

a) a determination of the Fair Market Value of the "in-kind" property.

b) a determination of the proportional share due to each participating jurisdiction involved in the forfeiture.

c) an amount, if any, which a participating agency must pay to the Department to keep the property, and set a reasonable time for the agency to pay that amount to the Department.

d) a determination of the "clear and reasonable law enforcement need for the forfeited property".

B. Joint Agency Sharing of Forfeited Assets:

1. In all cases in which there is agreement between participating agencies for the distribution of proceeds or in-kind property, distribution shall be made by the Department according to the terms of the agreement contained on Form 999, or evidence of agreement attached to that form, subject to a petition challenging the agreement and subject to concurrence by the Board of a reasonable law enforcement need for the in-kind property pursuant to § 8.A (3).

2. Any agency or office not in agreement as to the distribution of forfeited proceeds may petition the Criminal Justice Services Board for a proportional share of the proceeds.

3. The petition shall be filed on the letterhead of the petitioning agency and shall identify all othe

Emergency Regulations

participating agencies or offices.

4. The petition shall identify the proportional share of proceeds to which the petitioning agency believes it is entitled, and the grounds upon which it relies for that determination.

5. The petition shall be filed at the Department of Criminal Justice Services, 805 E. Broad Street, 10th Floor, Richmond, VA 23219.

6. The petition shall be filed within twenty-one (21) days of the entry of the court's forfeiture order in the case.

7. Upon receipt of the petition for participation in distribution, the Department shall forward copies of the petition to all known participating agencies or offices with a request for a responsive petition.

8. Responsive petitions shall be filed at DCJS within fourteen (14) days of receipt by the Agency Administrator.

9. Upon receipt at DCJS of all petitions related to a particular forfeiture, or upon expiration of the time for receipt of all petitions, DCJS shall prepare a decision package for the Forfeited Assets Distribution Committee.

C. Hearing

1. Upon receipt of a petition for contested distribution of forfeited assets, the Chairman of the Criminal Justice Services Board shall name five members of the Board to a Forfeited Assets Distribution Committee (FADC) to decide all controversies. The FADC shall include a Chief of Police, a Sheriff, a Commonwealth's Attorney and two additional Board members. The Board Chairman will designate the FADC chairman. If the FADC has already been established through the by-laws of the Criminal Justice Services Board, the petition shall be referred to the Chairman of the FADC.

2. The Chairman of the FADC shall designate a time and place of the meeting of the committee.

3. Meetings shall be held no later than forty-five (45) days after receipt of a petition for contested distribution, unless continued from time to time as required.

4. All participating agencies or offices shall be notified of the time and place of the meeting.

5. The FADC or Board shall consider the following criteria in reviewing petitions before it:

a. General:

1. The degree of participation in the law-enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law-enforcement effort with respect to the violation of law on which the forfeiture is based.

b. Specific:

1. Whether the agency or office originated the information that led to the seizure, and whether the agency obtained such information by use of its investigative assets, or through fortuitous events;

2. Whether the agency provided unique or indispensable assistance;

3. Whether the agency initially identified the asset for seizure;

4. Whether the agency seized other assets during the course of the same investigation and whether such seizures were made pursuant to state law;

5. Whether the agency could have achieved forfeiture under federal law, with favorable consideration given to an agency which could have forfeited the assets on its own, but joined forces with another agency to produce a more effective investigation;

6. Upon reviewing all petitions and arguments in the case, and after weighing the factors and criteria listed in these regulations, the FADC or Board shall determine by majority vote the proportional share of the proceeds, and shall direct the Department to distribute the proceeds according to law.

7. A decision of the FADC will be final for purposes of distribution of forfeited assets, unless, within ten (10) days of the FADC decision, a participating agency notifies the Department of an appeal to the Criminal Justice Services Board.

8. Appeals of FADC decisions shall be placed on the agenda of the next Criminal Justice Services Board meeting.

9. Appeals of FADC decisions will be heard by the full Board upon the report of the Committee, and upon such additional evidence and information as introduced during the meeting by participating agencies or offices.

10. The decision on appeal by the Criminal Justice Services Board shall be final.

§ 9. A. Prior to disbursement of proceeds by the Department, the chief administrative officer of the participating jurisdiction shall sign on its official stationery the following certification:

Emergency Regulations

"I certify that the proceeds applied for and any income or interest derived therefrom will be used for law enforcement purposes, and will not be used to supplant existing funds from any source whatsoever."

B. Agencies or offices which participate in the distribution of property or proceeds under Chapter 22.1 of Title 19.2, agree to maintain records of the use and handling of the respective proceeds or property and any income or interest derived therefrom for a period of three years from receipt. The Department may audit the records of the forfeited assets at any time during those three years, and shall report the findings of any such audit to the Criminal Justice Services Board.

§ 10. Effective Date:

These emergency regulations shall be effective on July 1, 1991, and until amended or rescinded.

ADOPTED: JUNE 17, 1991

/s/ Helen F. Fahey
Chairperson
Criminal Justice Services Board
Date: June 17, 1991

/s/ Lindsay G. Dorrier, Jr.
Director
Department of Criminal Justice Services
Date: June 17, 1991

/s/ Robert L. Suthard
Secretary of Public Safety
Date: July 30, 1991

/s/ Lawrence Douglas Wilder
Governor
Commonwealth of Virginia
Date: August 6, 1991

/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: August 8, 1991



ASSET SEIZURE AND FORFEITURE CHECKLIST

Check each box as you complete

Seizure

- 1. Contact Commonwealth Attorney ASAP
- 2. Search and seizure warrants
- 3. DCJS Form 998 within 21 days of seizure
- 4. Title and lien information for conveyances (car, boat, aircraft, etc.)
- 5. Title search and lien information on property
- 6. Property inventory (record with polaroid camera, videotape, etc.)
- 7. Asset value determination
- 8. Storage arrangement for conveyance or safe keeping of currency
- 9. Property management arrangement
- 10. Hold harmless and occupancy agreement signed
- 11. Sharing agreement arranged with all participating agencies

Forfeiture

- 1. Court order of disposition
- 2. DCJS Form 999
- 3. Costs incurred during seized asset management
- 4. Petition for in-kind property



DCJS 998

ASSET SEIZURE REPORTING FORM

Please type or use ball point pen to complete and press down firmly
To be filed with DCJS within 21 days of seizure.

1. Seizing Department:											
2. Seizure Case No.:	3. DCJS Seizure No.:	4. Date of Seizure:									
5. Property Seized:											
6. Location of Property Seized: (street and city)		7. Legal Grounds for Seizure:									
8. Detailed Description of Property:											
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_____	_____	_____									
_____	_____	_____									
9. Seized from:											
Name _____											
Address _____											

10. Lien/Mortgage holder(s):											
Name _____											
Address _____											

11. Property stored at:											

12. Joint Seizure Participating Agencies:											

13. Seizing Officer:											
Name _____ Title _____ Phone no. _____											
Signature _____											
14. Chief/Sheriff/Superintendent:											
Name _____ Title _____ Phone no. _____											
Signature _____											

Original to DCJS • Yellow to Commonwealth Attorney • Blue to originating agency

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-03-3.1100. Amount, Duration, and Scope of Services: Second Surgical Opinion Program.

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

Effective Dates: September 1, 1991, through August 31, 1992.

Summary:

1. **REQUEST:** The Governor's approval is hereby requested to adopt the emergency regulation entitled Elimination of Second Surgical Opinion Program. This policy will eliminate the administrative and medical costs of a program of unproven effectiveness.

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action regarding Elimination of Second Surgical Opinion Program. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Bruce U. Kozlowski
Director

Date: August 5, 1991

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: August 9, 1991

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor
Date: August 19, 1991

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: August 20, 1991

DISCUSSION

6. **BACKGROUND:** The section of the State Plan for Medical Assistance affected by this emergency regulation action is Attachment 3.1 A & B, Supplement 1, § 1 (limits for inpatient hospital services) and § 5 (limits for physician services).

Program History: The Second Surgical Opinion Program (SSOP) was implemented in 1984 with a list of 10 surgical procedures requiring a second opinion. Procedures were considered for the program based upon high utilization volume, potential for abuse, high

failure rates, or cost-effectiveness of the procedure.

The program objectives were to provide additional information to the patient when considering a recommendation for surgery, to monitor the utilization trends of identified procedures, and to prevent unnecessary surgeries. If unnecessary surgeries were prevented or alternative therapies implemented, then risk to the patient would decline and the cost-effectiveness of medical intervention would improve. Recipients receiving a second opinion that differed from the initial recommendation were under no obligation to accept the second opinion.

The Department of Medical Assistance Services (DMAS) performed an overall review of the program and its previous evaluations. The review indicated the SSOP has not been successful in achieving its objectives, cost savings cannot be directly linked to the presence of the program, and that alternative programs would be implemented that would be more effective and less inconvenient to both Medicaid Recipients and providers. Therefore, the recommendation to discontinue the second surgical opinion requirement was presented to and approved by the Board of Medical Assistance Services on June 10, 1991.

Program Impact: Enhanced utilization review, pre-admission review, procedure monitoring, criteria development, and the potential for pre-authorization of certain procedures are all more effective alternatives to the SSOP. The effectiveness of these programs in achieving objectives similar to those of the SSOP has been demonstrated in both the public and private sector. Providers and recipients will benefit from the reduction of paperwork through the referral process, the time saved by not requiring a second opinion, the reduction in expenses incurred in seeking a second opinion (for example, transportation or time lost from work), and the elimination of the difficulties encountered in acquiring a second opinion in areas where physicians are in short supply or practice within the same group.

7. **AUTHORITY TO ACT:** The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:4.1(C)(5), for an agency's adoption of emergency regulations subject to the Governor's prior approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, this agency intends to initiate the public notice and comment process contained in Article 2 of the APA.

Without an emergency regulation, this amendment to the State Plan cannot become effective until the

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publication and concurrent comment and review period requirements of the APA's Article 2 are met. Therefore, an emergency regulation is needed to meet the desired September 1, 1991 effective date.

8. FISCAL/BUDGETARY IMPACT: Program evaluations have not documented that savings have occurred as a result of this program. Elimination of the program will result in a savings of approximately \$130,000 in administrative and medical costs in FY 92.

9. RECOMMENDATION: Recommend approval of this request to take an emergency adoption action to become effective on September 1, 1991, once filed with the Registrar of Regulations. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to discontinue administering its second surgical opinion program.

10. APPROVAL SOUGHT FOR VR 460-03-3.1100.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation.

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

General.

The provision of the following services cannot be reimbursed except when they are ordered or prescribed, and directed or performed within the scope of the license of a practitioner of the healing arts: laboratory and x-ray services, family planning services, and home health services. Physical therapy services will be reimbursed only when prescribed by a physician.

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

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

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

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

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

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

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

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

G. Reimbursement will not be provided for inpatient hospitalization for any selected elective surgical procedures that require a second surgical opinion unless a proper

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~~Executed second surgical opinion form has been obtained from the physician and submitted with the hospital invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in the retroactive eligibility period. Reserved.~~

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

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

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

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

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

which medical reviews will be necessary available upon request, and shall provide an appropriate place for the department's auditors to conduct such review.

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

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

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

§ 2. Outpatient hospital and rural health clinic services.

2a. Outpatient hospital services.

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

1. Are furnished to outpatients;
2. Except in the case of nurse-midwife services, as specified in § 440.165, are furnished by or under the direction of a physician or dentist; and
3. Are furnished by an institution that:
 - a. Is licensed or formally approved as a hospital by an officially designated authority for state standard-setting; and
 - b. Except in the case of medical supervision of nurse-midwife services, as specified in § 440.165, meets the requirements for participation in Medicare.

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

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

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

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

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

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

§ 3. Other laboratory and x-ray services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E. Any procedure considered experimental is not covered.

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

G. Physician visits to inpatient hospital patients are limited to a maximum of 21 days per admission within 60 days for the same or similar diagnoses and is further restricted to medically necessary inpatient hospital days as determined by the Program.

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

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

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

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

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

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

A. Podiatrists' services.

1. Covered podiatry services are defined as reasonable and necessary diagnostic, medical, or surgical treatment of disease, injury, or defects of the human foot. These services must be within the scope of the license of the podiatrists' profession and defined by state law.

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

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

B. Optometric services.

1. Diagnostic examination and optometric treatment procedures and services by ophthalmologists, optometrists, and opticians, as allowed by the Code of Virginia and by regulations of the Boards of Medicine

and Optometry, are covered for all recipients. Routine refractions are limited to once in 24 months except as may be authorized by the agency.

C. Chiropractors' services.

Not provided.

D. Other practitioners' services.

1. Clinical psychologists' services.

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

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

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-32-01. Child Day Care Scholarship Programs.

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

Effective Dates: August 16, 1991 through August 15, 1992.

Summary:

Virginia receives federal money (\$33,000 in FY 91) for the Child Development Associate Credential Scholarship Program. Revised regulations allow 35%, or approximately \$11,000, to be spent for applicant training. This year, Virginia will also receive nearly \$90,000 which must be used for child care provider training in federal monies through the Family Support Act. Additional monies may be available through the Child Development Block Grant for provider training as well. The Department intends to use portions of these grants to offer scholarships to child care providers. In the interests of simplicity for the child care provider applicant, the procedures for these and any other federal or state child care scholarship funds administered in the future by the Division of Licensing Programs will be identical unless federal or state policies dictate otherwise.

The Division of Licensing Programs has arranged with the community college system to offer a "foundation" (ECD 120) course statewide in basic child

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development and will provide a scholarship covering tuition for this course to successful scholarship applicants. Persons who complete this course or who are otherwise eligible may apply for a scholarship for "Preparation for the Child Development Associate Credential," (ECD 167) also offered by the community college system. If they are financially eligible according to the terms of a federal CDA Scholarship Grant, they may also be awarded a scholarship for the cost of CDA registration and assessment.

If the successful scholarship candidate so chooses, the amount of the award (the current cost of three-hour course in the community college system) may be applied to the cost of a similar three-hour course at another institution of higher learning in Virginia.

Preface:

The Virginia Department of Social Services has two federal grants to offer training to child day care providers. The Child Development Associate Credential Scholarship Grant provides \$33,087 to Virginia for Child Development Associate Credentials, of which 35% can be used for related training; and the Family Support Act Child Care Enhancement Grant provides Virginia with over \$85,000 which must be used for child day care provider training. Also, Child Care Block Grant funds may be added to the monies available for training child day care providers.

In planning how to best expend these dollars, we reviewed the work of HJR 27 and HJR 270, which recommended the establishment of a "foundation course" in child development for child day care providers. We have negotiated with the community college system, and have arranged for this course to be available on at least 20 community college campuses this fall.

In order to expend this money in the time frame allowed and allow for student registration for the fall semester, we must ask for emergency regulations to repeal the previous regulations and to cover our proposed administrative procedures. The proposed procedures, detailed in the attached package, address eligibility guidelines, application procedures, and selection guidelines.

We are working with the Council on Child Day Care and Early Childhood Programs to develop a Request for Proposals for the development of a statewide plan for child day care provider training. We anticipate that the plan will call for considerable public participation and will be guided by that public comment as we move to develop permanent regulations on this topic.

VR 615-32-01. Child Day Care Scholarship Programs.

PART I.

INTRODUCTION.

Article 1. Definitions.

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

"Applicant" means an individual who is applying for a scholarship.

"Candidate" means any individual who is applying for a Child Development Associate Credential.

"CDA" means the abbreviation for Child Development Associate.

"CDA Preparatory course" means the course (ECD 167) taught through the community college system which prepares the candidate for CDA assessment.

"Child development associate (CDA) credential" means the competency-based national credential awarded to individuals who work with children ages five and under. A CDA credential can be earned in three settings (Center-based, Family Day Care, and Home Visitor,) and with two age groups (0-36 months and 3-5 years old.) In addition, a bilingual specialization can be obtained. The credential is valid for three years and can be renewed for five-year periods.

"Competency areas" means the areas of child care in which the CDA candidate must demonstrate competency. They are as follows:

1. Establishing and maintaining a safe, healthy learning environment;
2. Advancing physical and intellectual competence;
3. Supporting social and emotional development and providing positive guidance and discipline;
4. Establishing positive and productive relationships with families;
5. Ensuring a well-run purposeful program responsive to participant needs;
6. Maintaining a commitment to professionalism.

"Council for Early Childhood Professional Recognition" means the subsidiary of the National Association for the Education of Young Children which is responsible for the issuance of the CDA credential.

"Evaluation process" means the CDA requirement that the candidate document and demonstrate skill in six competency areas while working with young children.

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"Family unit" means persons residing within the same household.

"Foundation course" means the course ECD 120 taught by the community colleges.

"Income eligibility" means that applicants meet the current federal or state criteria for eligibility based on income.

"Pre-approved" means that a candidate for a CDA Credential has been approved for award of CDA registration and assessment fees prior to requesting disbursement of funds to the Council for Early Childhood Professional Recognition.

"Registration and assessment fees" means the amount charged by the Council for Early Childhood Professional Recognition for registration and assessment in the Child Development Associate Credential Program.

"State-approved program" means licensed child care centers, group family day care homes, and family day care systems, religiously exempt child care facilities, and family day care homes approved or registered by local social services agencies or community agencies approved by the Department of Social Services.

PART II. ADMINISTRATIVE PROCEDURES.

Article 1.

The Application.

§ 2.1. Scholarship applicants must submit a scholarship application form, available from the Division of Licensing Programs to the Division of Licensing Programs.

§ 2.2. A separate application must be filled out for each scholarship award applied for, i.e., for the foundation course, the CDA preparation course, and the registration and assessment award.

§ 2.3. A Certificate of Income Verification, also available from the Division of Licensing Programs, must be included as part of the first application to establish income eligibility for CDA Scholarship funds.

§ 2.4. Applications must be domiciled in Virginia and currently working in a state approved child care program. Preference will be given to applicants who have worked in a child care setting for at least three months before the course begins.

§ 2.5. Applicants must indicate which community college they plan to attend.

§ 2.6. Applicants must be received at least one month prior to the beginning of a course for full consideration. Applications received after this date may be funded if

monies are available.

§ 2.7. Applicants will be notified by telephone of incomplete applications.

Article 2. Selection.

§ 2.8. Applications will be processed and scholarships awarded in order of date received, with the following exceptions:

1. Preference will be given to persons indicating an intent to obtain the CDA.

2. To the extent possible, scholarships will be awarded to reflect the general diversity of child care providers considering such factors as rural/urban and profit/non-profit settings and the various types of child care providers (center-based, family day care, and home visitor).

3. To the extent possible after the above two considerations are met, scholarships will be awarded in proportion to the concentration of child day care programs within the geographic areas served by the various community colleges.

Article 3. Disbursement of Funds.

Community College Scholarships.

§ 2.9. Community colleges will be notified in writing when scholarships are awarded to applicants in their regions.

§ 2.10. When scholarship holders have enrolled and attended the first class, the community college may bill the Division of Licensing Programs for tuition, using an Interagency Transfer.

§ 2.11. If a scholarship holder withdraws from the class, the community college will reimburse the Division of Licensing Programs as provided in college procedures and policies.

CDA Registration and Assessment Scholarship.

§ 2.12. Two months prior to applying for assessment, the candidate, who must have been preapproved for this scholarship, must notify the Division of Licensing Programs of their intent to be assessed by sending the CDA assessment request form to the Division of Licensing Programs.

§ 2.13. Upon the preapproved candidate's notification of intent to be assessed, the Division will prepare a check for the full amount of registration and assessment fees and send it to the Council for Early Childhood Professional Recognition with the CDA assessment request form.

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*Article 4.
Maintenance of Statistical Information.*

§ 2.14. Current hourly wage information will be requested in writing from those individuals successfully obtaining the CDA credential:

- 1. At the time they request disbursement of funds to the Council for Early Childhood Professional Recognition;*
- 2. One year later;*
- 3. Two years later.*

§ 2.15. Other statistical information may be requested of any applicant receiving a scholarship from this program.

*/s/ Larry D. Jackson
Commissioner
Department of Social Services
Date: July 23, 1991*

*/s/ Lawrence Douglas Wilder
Governor
Date: August 16, 1991*

*/s/ Joan W. Smith
Registrar of Regulations
Date: August 16, 1991*

Virginia Child Care Provider Scholarship Program Certificate of Income Verification

Complete this form to be considered for all scholarship funds for the Foundation Course or the CDA Preparation Course.

1. Name: _____

2. Address: _____

3. Number of persons in family unit: _____

4. If filed, a copy of your most recent income tax for 1990A must accompany this application.
 Tax form completed and a copy enclosed
 Tax form not completed for 1990

5. If financial assistance such as AFDC, Unemployment Compensation, Workman's Compensation, or General Assistance was received, documentation from the appropriate government agency must accompany this application.

Financial assistance was received and documentation is provided.

Type of assistance received: _____

Financial assistance was not received during 1990.

For Office Use Only

1. Current OMB Guidelines: _____
2. Total taxable income for 1990: _____
3. Meets income guidelines: _____
5. Letter sent to candidate (Date): _____

6. If you have neither a completed income tax form nor proof of financial assistance, please enclose proof of earnings such as a dated payroll stub with your name on it. Call (804) 662-9085 for assistance in determining what type of documentation you need.

7. Current hourly salary: _____

I certify that the information included in this application, to the best of my knowledge, is true and correct. If I am awarded a scholarship I agree to furnish income information to the Virginia Department of Social Services for a period of two years after receipt of the CDA Credential.

Applicant for CDA Scholarship

Date: _____

For information about the Child Development Associate Credential, call the Council for Early Childhood Professional Recognition at 1-800-424-4310.

For information about the Virginia Child Care Provider Scholarship Program, call or write:

Ms. Catherine Loveland
Division of Licensing Programs
8007 Discovery Drive,
Richmond, VA 23229-8699
804 662-9085

General Information About the Scholarship Program

This scholarship program is open to Virginia residents who work in registered, licensed, or approved child care settings. A scholarship will pay tuition costs for a "Foundation Course" in child development; a "CDA Preparatory Course", or for registration and assessment fees for the CDA Assessment. These courses are being offered at participating community colleges throughout the state.

If your community college is not offering the course, we may be able to make it available to you through a correspondence course. Also, if there is enough demand, your community college may decide to offer the course for you.

If you are selected for this scholarship, you will be notified by mail. We will also send your name and other information to the community college you indicated. You will be responsible for registering for your course through normal community college procedures. You will be able to buy your text, "Meeting Children's Needs in the Child Care Environment," at cost.

Learning about child development is one of the most important things you can do for the children in your care. We encourage you to apply for this scholarship and expand your career options.

Virginia Child Care Provider Scholarship Program Application Form

This is your application form for a tuition scholarship for the Foundation Course, the CDA Preparation Course, or the CDA Registration and Assessment Fees. You must fill out a separate form for each scholarship applied for.

1. Are you applying for (Check one)
 Foundation Course (CDH 120) (Fall)
 CDA Prep Course (CHD) (Spring)
 CDA Registration & Assessment

2. Please check the participating community college at which you plan to take the course indicated above:

- Paul D. Camp C. C. - Franklin
- Central Va. C. C. - Lynchburg
- Danville C. C. - Danville
- Eastern Shore C. C. - Meffa
- Germanna C. C. - Locust Grove
- John Tyler C. C. - Chester
- Dabney S. Lancaster C. C. - Clifton Forge
- Loud Fairfax C. C. - Middletown
- New River C. C. - Dullin
- Northern Va. C. C. - Alexandria
- Patrick Henry C. C. - Martinsville
- Piedmont Va. C. C. - Charlottesville
- Southside Va. C. C. - Alberta
- Southside Va. C. C. - Keyville (Daniel Campus)
- Southwest Va. C. C. - Richlands
- Thomas Nelson C. C. - Hampton
- Tidewater C. C. - Chesapeake
- Tidewater C. C. - Portsmouth
- Tidewater C. C. - Va Beach
- Virginia Western Community College

If you are located in an area in which the course is not being given, are you interested in taking it by correspondence? _____

General Information

Please type or print clearly

1. Name: _____

Daytime telephone: _____

Social Security Number _____

2. Mailing Address: _____

3. Name, address, and telephone number of center/home at which you work:

4. Name of Program Director: _____

5. How long have you worked full time in child care?

6. Check the type of setting:

Family Day Care _____

Center-based: Infant Toddler _____

Center-based: Preschool _____

Home Visitor _____

5. Is program registered, approved, or licensed by the Virginia Department of Social Services?
Yes _____ No _____

If "no", explain exemption or exclusion from licensing regulation: _____

For CDA Candidates

8. Are you planning to work toward a Child Development Associate (CDA) Credential? _____

If "yes", please answer the following questions:

1. The CDA Scholarship Program requires that the Certificate of Income Verification be on file with the Program Office. Your application for a scholarship can be processed only when both the application and the Certificate of Income Verification have been received.) Have you completed this form? Yes _____ No _____

2. Are you working in a bilingual setting and interested in obtaining the CDA with a bilingual specialization? Yes _____ No _____

Each CDA candidate works with a qualified field advisor who assists with preparation and participates in the CDA Assessment. Please give the name, mailing address, and daytime telephone number of your advisor.

When do you expect to be assessed? _____

The above information is correct and documents my intention to prepare for and complete the CDA assessment process.

Candidate's Signature: _____

Date: _____

Return to:
Scholarship Program
Division of Licensing Programs
8007 Discovery Drive,
Richmond, VA 23229-8699
(804) 662-9025

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 9, 1991

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS910239

Ex Parte: In the matter of
adopting Rules Governing Long-Term
Care Insurance

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 38.2-5200 through 38.2-5208 provide that the Commission is authorized to issue reasonable rules and regulations governing long-term care insurance;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed regulation entitled "Rules Governing Long-Term Care Insurance"; 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 Governing Long-Term Care Insurance" 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 October 17, 1991, for the purpose of considering the adoption of the proposed regulation;

(3) That, on or before September 27, 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 an attested copy hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, 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 insurers licensed to sell long-term care insurance in the Commonwealth of Virginia; and

(5) That the Bureau of Insurance shall file with the

Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

Rules Governing Long-Term Care Insurance.

§ 1. Authority.

This Regulation is issued pursuant to the authority vested in the Commission under §§ 38.2-223 and 38.2-5200 through 38.2-5208 of the Code of Virginia.

§ 2. Purpose.

This Regulation is designed to:

(a) promote the public interest;

(b) promote the availability of long-term care insurance coverage;

(c) protect applicants for long-term care insurance from unfair or deceptive sales or enrollment practices;

(d) promote public understanding and comparison of long-term care insurance coverage; and

(e) promote flexibility and innovation in the development of long-term care insurance.

§ 3. Effective Date.

A. This Regulation shall be effective on January 1, 1992.

B. No new policy form shall be approved on or after January 1, 1992 unless it complies with this Regulation.

C. No policy form shall be delivered or issued for delivery in this Commonwealth on or after January 1, 1992 unless it complies with this Regulation.

§ 4. Applicability and Scope.

Except as otherwise specifically provided, this Regulation applies to all long-term care insurance policies delivered or issued for delivery in this Commonwealth, on or after the effective date hereof, by insurers, fraternal benefit societies, health services plans, health maintenance organizations, cooperative non-profit life benefit companies or mutual assessment life, accident and sickness insurers.

§ 5. Definitions.

For purposes of this Regulation:

A. "Applicant" means in the case of an individual long-term care insurance policy, the person who seeks to contract for such benefits, or in the case of a group long-term care insurance policy, the proposed certificateholder.

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B. "Certificate" means any certificate or evidence of coverage issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this Commonwealth.

C. "Expected loss ratio" means the ratio of the present value of future premiums to the present value of future benefits over the entire period of the contract.

D. "Group long-term care insurance" means a long-term care insurance policy which complies with § 38.2-3523 of the Code of Virginia delivered or issued for delivery in this Commonwealth.

E. "Insurer" means any insurance company, health services plan, fraternal benefit society, health maintenance organization, cooperative non-profit life benefit company, or mutual assessment life, accident and sickness insurer.

F. "Long-term care insurance" means any insurance policy or rider primarily advertised, marketed, offered or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense incurred, indemnity, prepaid, or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, personal care, mental health or substance abuse services, provided in a setting other than an acute care unit of a hospital. Such term includes group and individual annuities and life insurance policies or riders which provide directly or which supplement long-term care insurance whether issued by insurers, fraternal benefit societies, health services plans, health maintenance organizations, cooperative non-profit life benefit companies or mutual assessment life, accident and sickness insurers. Such term also includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage. With regard to life insurance, this term does not include life insurance policies which accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement, and which provide the option of a lump-sum payment for those benefits and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care. Notwithstanding any other provision contained herein, any product advertised, marketed or offered as long-term care insurance shall be subject to the provisions of this Regulation. Health maintenance organizations, cooperative non-profit life benefit companies and mutual assessment life, accident and sickness insurers shall apply to the Commission for approval to provide long-term care

insurance prior to issuing this type of coverage.

G. "Policy" means any individual or group policy of insurance, contract, subscriber agreement, certificate, rider or endorsement delivered or issued for delivery in this Commonwealth by an insurer, fraternal benefit society, health services plan, health maintenance organization, cooperative non-profit life benefit company, or mutual assessment life, accident and sickness insurer.

§ 6. Policy Definitions.

No long-term care insurance policy delivered or issued for delivery in this Commonwealth shall use the terms set forth below, unless the terms are defined in the policy and the definitions satisfy the following requirements:

A. "Acute condition" means that the individual is medically unstable. Such an individual requires frequent monitoring by medical professions, such as physicians and registered nurses, in order to maintain his or her health status.

B. "Home health care services" means medical and nonmedical services, provided to ill, disabled or infirm persons in their residences. Such services may include homemaker services, assistance with activities of daily living and respite care services.

C. "Medicaid" shall be defined as the program administered in accordance with Title 32 of the Code of Virginia.

D. "Medicare" shall be defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

E. "Mental or nervous disorder" shall not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder.

F. "Skilled nursing care," "intermediate care," "personal care," "home health care," and other services shall be defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered.

G. All providers of services, including but not limited to "skilled nursing facility," "extended care facility," "intermediate care facility," "convalescent nursing home," "personal care facility," "home for adults," and "home health care agency" shall be defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services. The definition may require that the provider

State Corporation Commission

be appropriately licensed or certified.

§ 7. Policy Practices and Provisions.

A. **Renewability.** The terms "guaranteed renewable" and "noncancellable" shall not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of § 8 of this regulation.

(1) No such policy issued to an individual shall contain renewal provisions other than "guaranteed renewable" or "noncancellable"; however, the Commission may authorize nonrenewal on a statewide basis, on terms and conditions deemed necessary by the Commission, to best protect the interest of the insureds, if the insurer demonstrates:

(a) That renewal will jeopardize the insurer's solvency; or

(b) That:

(i) The actual paid claims and expenses have substantially exceeded the premium and investment income associated with the policies; and

(ii) the policies will continue to experience substantial and unexpected losses over their lifetime; and

(iii) the projected loss experience of the policies cannot be significantly improved or mitigated through reasonable rate adjustments or other reasonable methods; and

(iv) the insurer has made repeated and good faith attempts to stabilize loss experience of the policies, including the timely filing for rate adjustment.

(2) The term "guaranteed renewable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

(3) The term "noncancellable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no unilateral right to make any change in any provision of the insurance or in the premium rate.

B. **Limitations and Exclusions.** No policy may be delivered or issued for delivery in this Commonwealth as long-term care insurance if such policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:

(1) Preexisting conditions or diseases, subject to § 38.2-5204.B. of the Code of Virginia;

(2) Mental or nervous disorders; however, this shall not permit exclusion or limitation of benefits on the basis of Alzheimer's Disease, senile dementia, organic brain disorder or other similar diagnoses;

(3) Alcoholism and drug addiction;

(4) Illness, treatment or medical condition arising out of:

(a) war or act of war (whether declared or undeclared);

(b) participation in a felony, riot or insurrection;

(c) service in the armed forces or units auxiliary thereto;

(d) suicide (sane or insane), attempted suicide or intentionally self-inflicted injury; or

(e) aviation (this exclusion applies only to nonfare-paying passengers).

(5) Treatment provided in a government facility (unless otherwise required by law), services for which benefits are available under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law, services provided by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance.

(6) This subsection B is not intended to prohibit exclusions and limitations by type of provider or territorial limitations.

C. **Extension of Benefits.** Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization if such institutionalization began while the long-term care insurance was in force and continues without interruption after termination. Such extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy.

D. Continuation or Conversion.

(1) Group long-term care insurance issued in this Commonwealth on or after the effective date of this section shall provide covered individuals with a basis for continuation of coverage or a basis for conversion of coverage.

(2) For the purposes of this Regulation, "a basis for

continuation of coverage" means a policy provision which maintains coverage under the existing group policy when such coverage would otherwise terminate and is subject only to the continued timely payment of premium when due. Group policies which restrict provision of benefits and services to, or contain incentives to use certain providers and§ or facilities may provide continuation benefits which are substantially equivalent to the benefits of the existing group policy. The Commission shall make a determination as to the substantial equivalency of benefits is subject to review by the Commission, and in doing so, the Commission shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

(3) For the purposes of this Regulation, "a basis for conversion of coverage" means a policy provision stating that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and any group policy which it replaced) for at least six months immediately prior to termination, shall be entitled to the issuance of a converted policy by the insurer under whose group policy he or she is covered, without evidence of insurability.

(4) For the purposes of this Regulation, "converted policy" means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the Commission to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers and§ or facilities, the Commission insurer, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity. The determination of substantial equivalency is subject to review by the Commission.

(5) Written application for the converted policy shall be made and the first premium due, if any, shall be paid as directed by the insurer not later than thirty-one days after termination of coverage under the group policy. The converted policy shall be issued effective on the day following the termination of coverage under the group policy, and shall be renewable annually.

(6) Unless the group policy from which conversion is

made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the initial group policy replaced.

(7) Continuation of coverage or issuance of a converted policy shall be mandatory, except where:

(a) Termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or

(b) The terminating coverage is replaced, as to an individual insured, not later than thirty-one days after termination, by group coverage effective on the day following the termination of coverage:

(i) Providing benefits identical to or benefits substantially equivalent to or in excess of those provided by the terminating coverage; and

(ii) The premium for which is calculated in a manner consistent with the requirements of paragraph (6) of this section. The determination of substantial equivalency is subject to review by the Commission.

(8) Notwithstanding any other provision of this section, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy which provides benefits on the basis of incurred expenses, may contain a provision which results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than 100 percent of incurred expenses. Such provision shall only be included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable.

(9) The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.

(10) Notwithstanding any other provision of this section, any insured individual whose eligibility for group long-term care coverage is based upon his or her relationship to another person, shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or

State Corporation Commission

dissolution of marriage.

(11) For the purposes of this Regulation, a "Managed-Care Plan" is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks.

E. Discontinuance and Replacement. If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy:

(1) Shall not result in any exclusion for preexisting conditions that would not have been covered under the group policy being replaced; and

(2) Shall not vary or otherwise depend on the individual's health or disability status, claim experience or use of long-term care services.

§ 8. Required Disclosure Provisions.

A. Renewability. Individual long-term care insurance policies shall contain a renewability provision. Such provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed. This provision shall not apply to policies which do not contain a renewability provision, and under which the right to nonrenew is reserved solely to the policyholder.

B. Riders and Endorsements. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy, rider or endorsement.

C. Payment of Benefits. A long-term care insurance policy which provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import shall include a definition of such terms and an explanation

of such terms in its accompanying outline of coverage.

D. Limitations. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations."

E. Other Limitations or Conditions on Eligibility for Benefits. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those prohibited in § 38.2-5205.A. shall set forth a description of such limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label such paragraph "Limitations or Conditions on Eligibility for Benefits."

F. Disclosure of Tax Consequences. With regard to life insurance policies which provide an accelerated benefit for long-term care, a disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents.

§ 9. Prohibition of Post-Claims Underwriting.

A. All applications and enrollment forms for long-term care insurance policies or certificates except those which are guaranteed issue shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant.

B. Requirements for applications or enrollment forms:

(1) If an application or enrollment form for long-term care insurance contains a question which asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list each medication that has been prescribed.

(2) If the medications listed in such application or enrollment form were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, then the policy or certificate shall not be rescinded for that condition, even if such condition is not otherwise disclosed in the application or enrollment form.

C. Except for policies or certificates which are guaranteed issue:

(1) The following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application or enrollment form for a long-term care insurance polic

or certificate:

Caution: If your answers on this application or enrollment form are incorrect or untrue, [company] has the right to deny benefits or rescind your [policy] [certificate].

The agent and the applicant must sign this section.

(2) The following language, or language substantially similar to the following, shall be set out conspicuously, in bold face type, on the long-term care insurance policy or certificate at the time of delivery:

Caution: This policy may not apply when you have a claim! Please read! The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application [enrollment form]. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your [policy] [certificate]. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address].

(3) Prior to issuance of a long-term care policy or certificate to an applicant age eighty (80) or older, the insurer shall obtain one of the following:

- (a) A report of a physical examination;
- (b) An assessment of functional capacity;
- (c) An attending physician's statement; or
- (d) Copies of medical records.

D. A copy of the completed application or enrollment form (whichever is applicable) shall be delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application.

E. Every insurer selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those which the insured voluntarily effectuated, and shall annually furnish this information to the Commission in the format prescribed by the National Association of Insurance Commissioners.

§ 10. Minimum Standards for Home Health Care Benefits in Long-Term Care Insurance Policies.

A. A long-term care insurance policy or certificate may not, if it provides benefits for home health care services, limit or exclude benefits:

- (1) By requiring that the insured/claimant would need

skilled care in a skilled nursing facility if home health care services were not provided;

- (2) By requiring that the insured/claimant first or simultaneously receive nursing and/or therapeutic services in a home or community setting before home health care services are covered;

- (3) By limiting eligible services to services provided by registered nurses or licensed practical nurses;

- (4) By requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of his or her licensure or certification;

- (5) By requiring that the insured/claimant have an acute condition before home health care services are covered; or

- (6) By limiting benefits to services provided by Medicare-certified agencies or providers.

B. Home health care coverage may be applied to the nonhome health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate.

§ 11. Requirement to Offer Inflation Protection.

A. No insurer may offer a long-term care insurance policy unless the insurer also offers to the policyholder in addition to any other inflation protection the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers must offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one of the following:

- (1) Increases benefit levels annually, in a manner so that the increases are compounded annually, at a rate not less than five percent (5%);

- (2) Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status; so long as the option for the previous period has not been declined. The amount of the additional benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent (5%) for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or

- (3) Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

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B. Where the policy is issued to a group, the required offer in Subsection A above shall be made to each proposed certificateholder; except if the policy is issued to a continuing care retirement community the offering shall be made to the group policyholder.

C. The offer in subsection A above shall not be required of life insurance policies or riders containing accelerated long-term care benefits.

D. Insurers shall include the following information in or with the outline of coverage:

(1) A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a twenty (20) year period.

(2) Any expected premium increases or additional premiums to pay for automatic or optional benefit increases. If premium increases or additional premiums will be based on the attained age of the applicant at the time of the increase, the insurer shall also disclose the magnitude of the potential premiums the applicant would need to pay at ages 75 and 85 for benefit increases. An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure.

§ 12. Requirements for Application Forms and Replacement Coverage.

A. Application or enrollment forms shall include the following questions designed to elicit information as to whether, as of the date of the application the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent, containing such questions may be used. With regard to a replacement policy issued to a group the following questions may be modified only to the extent necessary to elicit information about accident and sickness or long-term care insurance policies other than the group policy being replaced; provided, however, that the certificateholder has been notified of the replacement.

(1) Do you have another long-term care insurance policy or certificate in force (including a health services plan contract, or a health maintenance organization contract)?

(2) Did you have another long-term care insurance policy or certificate in force during the last twelve (12) months?

(a) If so, with which company?

(b) If that policy lapsed, when did it lapse?

(3) Are you covered by Medicaid?

(4) Do you intend to replace any of your medical or health insurance coverage with this policy [certificate]?

B. Agents shall list any other health insurance policies they have sold to the applicant.

(1) List policies sold which are still in force.

(2) List policies sold in the past five (5) years which are no longer in force.

C. Solicitations Other than Direct Response. Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its agent, shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be phrased as follows:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL

ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

.....
[INSURANCE COMPANY'S NAME AND ADDRESS]

SAVE THIS NOTICE!

IT MAY BE IMPORTANT TO YOU IN THE FUTURE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by (Company Name). Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy. You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT [OR OTHER REPRESENTATIVE]:

(Use additional sheets, as necessary.)

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I have reviewed your current medical or health insurance coverage, I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention.

(1) Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) State law provides that your replacement policy or certificate may not contain new preexisting conditions, or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(3) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(4) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

.....
Signature of Agent or Other Representative

.....
(Typed name and Address of Agent)

The above "Notice to Applicant" was delivered to me on:

.....
Date

.....
(Applicant's Signature)

D. Direct Response Solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be phrased as follows:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF

ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

.....
Insurance Company's Name and Address

SAVE THIS NOTICE!

IT MAY BE IMPORTANT TO YOU IN THE FUTURE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with the long-term care insurance policy delivered herewith issued by (Company Name). Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy. You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

(1) Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(3) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(4) (To be included only if the application is attached to the policy or certificate.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application or enrollment form attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application or enrollment form could cause an otherwise valid claim to be denied.

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Carefully check the application or enrollment form and write to (Company Name and Address) within thirty (30) days if any information is not correct or complete, or if any past medical history has been left out of the application or enrollment form.

(Company Name)

E. Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. The existing policy shall be identified by the insurer, name of the insured and policy number or address including zip code. Such notice shall be made within five (5) working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner.

F. An individual long-term care policy that replaces a previous long-term care policy must be at least substantially equivalent in benefits. The substantial equivalency of benefits is subject to review by the Commission.

§ 13. Reporting Requirements.

A. Every insurer shall maintain records for each agent of that agent's amount of replacement sales as a percent of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percent of the agent's total annual sales.

B. Each insurer shall report annually by June 30 the ten percent (10%) of its agents with the greatest percentages of lapses and replacements as measured by Subsection A above.

C. Reported replacement and lapse rates do not alone constitute a violation of the insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance.

D. Every insurer shall report annually by June 30 the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year.

E. Every insurer shall report annually by June 30 the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year.

F. For purposes of this section, "policy" shall mean only long-term care insurance and "report" means on a statewide basis.

§ 14. Discretionary Powers of Commission.

The Commission may upon written request modify or suspend a specific provision or provisions of this regulation with respect to a specific long-term care insurance policy

or certificate upon a written finding that:

A. The modification or suspension would be in the best interest of the insureds; and

B. The purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and

(1) The modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care; or

(2) The policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or

(3) The modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product.

§ 15. Reserve Standards.

A. When long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves for such benefits shall be determined in accordance with § 38.2-3130 paragraph 7. Claim reserves must also be established in the case when such policy or rider is in claim status. Reserves for policies and riders subject to this subsection should be based on the multiple decrement model utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations are acceptable if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The calculations may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. However, in no event shall the reserves for the long-term care benefit and the life insurance benefit be less than the reserves for the life insurance benefit assuming no long-term care benefit. In the development and calculation of reserves for policies and riders subject to this subsection, due regard shall be given to the applicable policy provisions, marketing methods, administrative procedures and all other considerations which have an impact on projected claim costs, including, but not limited to, the following:

(1) Definition of insured events;

(2) Covered long-term care facilities;

(3) Existence of home convalescence care coverage;

(4) Definition of facilities;

(5) Existence or absence of barriers to eligibility;

- (6) Premium waiver provision;
- (7) Renewability;
- (8) Ability to raise premiums;
- (9) Marketing method;
- (10) Underwriting procedures;
- (11) Claims adjustment procedures;
- (12) Waiting period;
- (13) Maximum benefit;
- (14) Availability of eligible facilities;
- (15) Margins in claim costs;
- (16) Optional nature of benefit;
- (17) Delay in eligibility for benefit;
- (18) Inflation protection provisions; and
- (19) Guaranteed insurability option.

Any applicable valuation morbidity table shall be certified as appropriate as a statutory valuation table by a member of the American Academy of Actuaries.

B. When long-term care benefits are provided other than as in Subsection A above, reserves shall be determined in accordance with § 38.2-3130 paragraph 7.

§ 16. Loss Ratio.

Benefits under individual long-term care insurance policies shall be deemed reasonable in relation to premiums provided the expected loss ratio is at least sixty percent (60%), calculated in a manner which provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including:

A. Statistical credibility of incurred claims experience and earned premiums;

B. The period for which rates are computed to provide coverage;

C. Experienced and projected trends;

D. Concentration of experience within early policy duration;

E. Expected claim fluctuation;

F. Experience refunds, adjustments or dividends;

G. Renewability features;

H. All appropriate expense factors;

I. Interest;

J. Experimental nature of the coverage;

K. Policy reserves;

L. Mix of business by risk classification; and

M. Product features such as long elimination periods, high deductibles and high maximum limits.

Demonstrations of loss ratios shall be made in compliance with Regulation No. 22 Rules Governing the Filing of Rates for Individual and Certain Group Accident and Sickness Insurance Policy Forms.

§ 17. Filing Requirements for Advertising.

A. Every insurer providing long-term care insurance or benefits in this Commonwealth shall provide a copy of any long-term care insurance advertisement intended for use in this Commonwealth whether through written, radio or television medium to the Commission for review or approval by the Commission to the extent it may be required under state law. In addition, all advertisements shall be retained by the insurer for at least three (3) years from the date the advertisement was first used.

B. The Commission may exempt from these requirements any advertising form or material when in the Commission's opinion, this requirement may not be reasonably applied.

§ 18. Standards for Marketing.

A. Every insurer, marketing long-term care insurance coverage in this Commonwealth directly or through its agents, shall:

(1) Establish marketing procedures to assure that any comparison of policies by its agents will be fair and accurate.

(2) Establish marketing procedures to assure excessive insurance is not sold or issued.

(3) Display prominently by type, stamp or other appropriate means on the first page of the outline of coverage and policy the following:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."

(4) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or

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enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance.

(5) Every insurer, marketing long-term care insurance shall establish auditable procedures for verifying compliance with this subsection A.

B. In addition to the practices prohibited in Chapter 5 of Title 38.2 (§ 38.2-500) et seq. the following acts and practices are prohibited:

(1) **Twisting.** Making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy or to take out a policy of insurance with another insurer.

(2) **High Pressure Tactics.** Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(3) **Cold Lead Advertising.** Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

§ 19. Appropriateness of Recommended Purchase.

In recommending the purchase or replacement of any long-term care insurance policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

§ 20. Prohibition Against Preexisting Conditions and Probationary Periods in Replacement Policies or Certificates

If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy.

§ 21. Standard Format Outline of Coverage.

This section of the regulation implements, interprets and makes specific, the provisions of § 38.2-5207 in prescribing a standard format and the content of an outline of coverage.

A. The outline of coverage shall be a free-standing

document, in at least ten-point type.

B. The outline of coverage shall contain no material of an advertising nature.

C. Text which is capitalized or underscored in the standard format for outline of coverage may be emphasized by other means which provide prominence equivalent to such capitalization or underscoring.

D. The text and sequence of text of the standard format for outline of coverage is mandatory, unless otherwise specifically indicated.

E. Format for outline of coverage:

[COMPANY NAME]

[ADDRESS - CITY & STATE]

[TELEPHONE NUMBER]

LONG-TERM CARE INSURANCE

OUTLINE OF COVERAGE

[Policy Number or Group Master Policy and Certificate Number]

[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, must appear as follows in the outline of coverage.]

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied.] If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises. If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

1. This policy is [an individual policy of insurance] ([a group policy] which was issued in the [indicate jurisdiction in which group policy was issued]).

2. **PURPOSE OF OUTLINE OF COVERAGE.** This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ

YOUR POLICY (OR CERTIFICATE) CAREFULLY!

3. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

(a) [Provide a brief description of the right to return – “free look” provision of the policy.]

(b) [Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.]

4. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

(a) [For agents] Neither [insert company name] nor its agents represent Medicare, the federal government or any state government.

(b) [For direct response] [insert company name] is not representing Medicare, the federal government, or any state government.

5. LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community or in the home.

This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]

6. BENEFITS PROVIDED BY THIS POLICY.

(a) [Covered services, related deductible(s), waiting periods, elimination periods and benefit maximums.]

(b) [Institutional benefits, by skill level.]

(c) [Non-institutional benefits, by skill level.]

[Any benefit screens must be explained in this section. If these screens differ for different benefits, explanation of the screen should accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified. If activities of daily living (ADLs) are used to measure an insured's need for long-term care, then these qualifying criteria

or screens must be explained.]

7. LIMITATIONS AND EXCLUSIONS.

[Describe:]

(a) Preexisting conditions;

(b) Non-eligible facilities/provider;

(c) Non-eligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);

(d) Exclusions/exceptions;

(e) Limitations.]

[This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in (6) above.] THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

8. RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicate the following:

(a) That the benefit level will not increase over time;

(b) Any automatic benefit adjustment provisions;

(c) Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;

(d) If there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations;

(e) And finally, describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

9. TERMS UNDER WHICH THE POLICY (OR CERTIFICATE) MAY BE CONTINUED IN FORCE OR DISCONTINUED.

[(a) Describe the policy renewability provisions;

(b) For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy;

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(c) Describe waiver of premium provisions or state that there are no such provisions;

(d) State whether or not the company has a right to change premium, and if such a right exists, describe clearly and concisely each circumstance under which premium may change.]

10. ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS.

[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

11. PREMIUM.

(a) State the total annual premium for the policy;

(b) If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.]

12. ADDITIONAL FEATURES.

(a) Indicate if medical underwriting is used;

(b) Describe other important features.

§ 22. 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.

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 19, 1991

COMMONWEALTH OF VIRGINIA

At the relation of the

CASE NO. INS910244

STATE CORPORATION COMMISSION

Ex Parte: In the matter of
adopting Rules Governing Multiple
Employer Welfare Arrangements

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 Article 3 of Chapter 34 of Title 38.2 of the Code of Virginia provide that the Commission is authorized to issue reasonable rules and regulations governing multiple employer welfare arrangements;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed revised regulation entitled "Rules Governing Multiple Employer Welfare Arrangements"; and

WHEREAS, the Commission is of the opinion that a hearing should be held to consider the adoption of the proposed revised regulation;

THEREFORE, IT IS ORDERED:

(1) The the proposed revised regulation entitled "Rules Governing Multiple Employer Welfare Arrangements" 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 October 24, 1991, for the purpose of considering the adoption of the proposed revised regulation;

(3) That, on or before October 1, 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 an attested copy hereof 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 proposed revised regulation and hearing by mailing a copy of this order together with a copy of the regulation to all multiple employer welfare arrangements operating in the Commonwealth of Virginia and all insurers licensed to sell life and health, and accident and sickness insurance in the Commonwealth of Virginia; and

(5) That the Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirement of paragraph (4) above.

Rules Governing Multiple Employer Welfare Arrangements.

§ 1. Authority.

This regulation is issued pursuant to the authority vested in the Commission under § 38.2-223 and Article 3 of Chapter 34 of Title 38.2 of the Code of Virginia.

§ 2. Purpose.

The purpose of this regulation is to set forth rules to carry out the provisions of Article 3 (§ 38.2-3420 et seq.)

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of Chapter 34 of Title 38.2 of the Code of Virginia so as to establish reasonable standards for the licensing and operation of multiple employer health care plans welfare arrangements .

§ 3. Effective date.

A. This regulation shall be effective on January 1, 1988.

B. No contract, certificate, schedule of benefits, or evidence of coverage shall be issued or put in force on or after January 1, 1988 unless it complies with this regulation.

C. No contract, certificate, schedule of benefits, or evidence of coverage shall be reissued, renewed, or extended in this Commonwealth on or after January 1, 1988 unless it complies with this regulation. A contract, certificate, schedule of benefits, or evidence of coverage written before January 1, 1988 shall be deemed to be reissued, renewed, or extended on the date the multiple employer health care plan is allowed to change the terms of the contract or adjust the premiums charged.

§ 4. § 3. Applicability and scope.

A. This regulation shall apply to all multiple employer health care plans welfare arrangements offering or providing coverage in this Commonwealth if any of the following conditions is met:

1. The multiple employer health care plan welfare arrangement is domiciled in Virginia;
2. At least one employer whose principal office or headquarters is located in Virginia provides health care benefits to his employees through the multiple employer health care plan welfare arrangement , regardless of the plan's place of domicile; or
3. At least one employee who is employed in Virginia and who has been initially enrolled in the plan in Virginia is being provided health care benefits through the multiple employer health care plan welfare arrangement , regardless of the plan's place of domicile or the location of the employer's principal office or headquarters.

B. Such multiple employer health care plans shall be subject to certain appropriate provisions of Title 38.2 as set forth in this regulation in accordance with § 38.2-3423 of the Code of Virginia. For the purpose of this regulation, wherever the term "insurer," "insurance company," or "insurance" is used in those sections of Title 38.2 such term shall be construed to mean multiple employer health care plan.

B. Multiple employer welfare arrangements shall be subject to all of the provisions of Title 38.2 of the Code of Virginia to the extent that such provisions are applicable to multiple employer welfare arrangements in accordance

with § 38.2-3421 of the Code of Virginia.

§ 5. § 4. Definitions.

As used in this regulation:

A. "Multiple employer health care plan welfare arrangement" means any plan or arrangement which is established or maintained for the purpose of offering or providing coverage for health care services, whether such coverage is by direct payment, reimbursement, or otherwise, to employees of two or more employers, or to their beneficiaries. Such term shall not include any of the following:

1. Two or more trades or businesses, whether or not incorporated, if such trades or businesses are within the same control group where common control is based on an interest of at least 25%. However, any change in common control to an interest of less than 25% shall require immediate notification to the Commission and the filing of an application for a license within 30 days of such change. All licensing requirements set forth herein shall then apply, but there shall be no requirement to discontinue the offering of benefits during this period;

2. Plans established and maintained for the purpose of complying with any workers' compensation law or unemployment compensation disability insurance law;

3. Plans which are primarily for the purpose of providing first aid care and treatment at a dispensary of an employer for injury or sickness of employees while engaged in their employment;

4. Local government group self-insurance pools subject to regulation under Chapter 11.1 (§ 15.1-503.4:1 et seq.) of Title 15.1 of the Code of Virginia;

5. Plans which are exempt from state insurance regulation in accordance with Pub. L. No. 93-406, the Employee Retirement Income Security Act as amended, including any plan or other arrangement which is established or maintained (i) under or pursuant to one or more agreements which are found to be collective bargaining agreements, or (ii) any plan or other arrangement which is established or maintained by a rural electric cooperative as defined in this section, provided that any plan which claims exemption from this regulation under the Employee Retirement Income Security Act (Pub. L. No. 93-406) as amended must provide satisfactory proof of qualification under that Act as provided for in § 38.2-3421 of the Code of Virginia;

B. "Rural electric cooperative" means:

1. Any organization which is exempt from tax under § 501(a) of the Internal Revenue Code of 1986 and which is engaged primarily in providing electric

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service on a mutual or cooperative basis; and

2. Any organization described in paragraph (4) or (6) of § 501(e) of the Internal Revenue Code of 1986 which is exempt from tax under § 501(a) of such Code and at least 80% of the members of which are organizations described above in paragraph 1 of this subsection.

B. "Fully insured" means all of the covered benefits are (i) insured on a direct basis by an insurance company licensed and in good standing to transact the business of insurance in Virginia pursuant to Title 38.2 of the Code of Virginia or (ii) arranged for or provided on a direct basis by (1) a health services plan licensed and in good standing in Virginia pursuant to Chapter 42 of Title 38.2 of the Code of Virginia, (2) a health maintenance organization licensed and in good standing in Virginia pursuant to Chapter 43 of Title 38.2 of the Code of Virginia, (3) a dental or optometric services plan licensed and in good standing in Virginia pursuant to Chapter 45 of Title 38.2 of the Code of Virginia, or (4) any combination thereof. The existence of contracts of reinsurance will not be considered in determining whether a plan is "fully insured."

C. "Direct basis" means that the liability of the insurer, health maintenance organization, health services plan, or dental or optometric services plan runs directly to the insured employee or certificate holder.

D. "Member" means an employer which participates in a multiple employer health care plan welfare arrangement.

E. "Contribution" means the amount paid or payable by the employer or employee for services provided through the multiple employer health care plan welfare arrangement.

F. "Risk sharing arrangement" means a policy of accident and sickness insurance providing excess, stop-loss, or any similar or related coverage by any other name called, which meets the criteria of the Commission as is appropriate for the type of insurance contract used.

F. "Good standing" means the license of any (i) company transacting the business of insurance in the Commonwealth of Virginia pursuant to Title 38.2 of the Code of Virginia, (ii) health services plan pursuant to Chapter 42 of Title 38.2 of the Code of Virginia, (iii) health maintenance organization pursuant to Chapter 43 of Title 38.2 of the Code of Virginia, or (iv) a dental or optometric services plan pursuant to Chapter 45 of Title 38.2 of the Code of Virginia is not suspended or revoked, or the company, health services plan, health maintenance organization, or dental or optometric services plan is not precluded by Order of the Commission from soliciting, negotiating, procuring or effecting contracts of insurance.

F. "Third-party administrator" or "administrator" means

any person who receives or collects charges, contributions, or premiums; or who adjusts or settles claims for a multiple employer health care plan providing coverage in this Commonwealth for health care services; whether such coverage is by direct payment, reimbursement, or otherwise. The term "third-party administrator" or "administrator" does not include the following:

1. An insurer, health maintenance organization, nonstock health services plan, or nonstock dental or optometric services plan licensed in this Commonwealth to write health coverage and directly administering services for the multiple employer health care plan.

2. An employer acting on behalf of its employees or the employees of one or more subsidiary or affiliated corporations of the employer.

3. A union acting on behalf of its members.

4. Any agent licensed in this Commonwealth, whose activities with regard to the multiple employer health care plan are limited exclusively to the sale of insurance.

5. A creditor acting on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors.

6. A trust, its trustees, and employees acting thereunder, established in conformity with 20 U.S.C. 186.

7. A trust exempt from taxation under § 501(a) of the Federal Internal Revenue Code of 1986, its trustees, and employees acting thereunder, or a custodian, its agents and employees acting pursuant to a custodial account which meets the requirements of § 401(f) of the Federal Internal Revenue Code of 1986.

8. A credit card issuing company that solely advances for and collects premiums or charges from its credit card holders who have authorized it to do so.

9. A person who adjusts or settles individual claims in the normal course of practice or employment as an attorney at law, and who does not collect charges or premiums in connection with life or health insurance coverage or annuities.

10. A person who administers only self-insured workers' compensation plans.

G. "Commission" means the State Corporation Commission.

H. "Health care services" means services which are furnished to an individual for the purpose of preventing, alleviating, or healing human illness, injury, or physical disability. Such term may include services for optometric

or dental care.

I. "Domicile" means the situs of the trust through which the multiple employer health care plan welfare arrangement is established, the plan's place of incorporation or, if not set up through a trust or incorporated, the location of the plan's headquarters.

J. "Advertising" means any of the following:

1. Printed and published material, audio visual material, and descriptive literature of a multiple employer health care plan used in direct mail, newspapers, magazines, radio scripts, TV scripts, billboards and similar displays;

2. Descriptive literature and sales aids of all kinds issued by a multiple employer health care plan, agent, or broker for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; or

3. Prepared sales talks, presentations and material for use by agents, brokers and solicitors.

§ 6. § 5. Licensing and filing requirements.

A. License required:

No multiple employer health care plan shall operate in this Commonwealth without first obtaining a license or an exemption from the Commission. A multiple employer welfare arrangement that is not fully insured as defined in this regulation shall not operate in this Commonwealth without first meeting the criteria and becoming appropriately licensed as an insurance company, health maintenance organization, health services plan, or a dental or optometric services plan pursuant to Title 38.2 of the Code of Virginia.

B. A fully insured multiple employer welfare arrangement shall not operate in this Commonwealth without first filing with the Commission:

1. The names, addresses, and biographical summaries of the plan's trustees, officers, directors or other members of the plan's governing body.

2. The names, addresses, and qualifications of individuals responsible for the conduct of the plan's affairs, including any third-party administrators.

3. The names, addresses, and qualifications of persons who will solicit, negotiate, procure, or effect applications for coverage with the plan.

4. The names and addresses of employers participating in the plan.

5. Proof of coverage showing that the plan is fully insured by an insurer, health maintenance

organization, health services plan, or dental or optometric services plan as required by § 4.B of this regulation. Proof of coverage shall be submitted on a form prescribed by the Commission and shall include but not be limited to (i) a copy of the policy insuring the plan; (ii) confirmation from the insurer, health maintenance organization, health services plan, or a dental or optometric services plan that coverage is in force; and (iii) a statement indicating the length of time coverage has been in force.

6. Any other information the Commission may require including but not limited to information pertaining to the adequacy of the plan's level of reserves and contributions.

C.

1. If a multiple employer welfare arrangement changes coverage or does not remain fully insured as defined in § 4.B of this regulation, the plan shall notify the Commission at least 30 days prior to the effective date of any change or reduction in coverage.

2. Any multiple employer welfare arrangement which ceases to remain fully insured shall, at least 30 days prior to the effective date of coverage termination, (1) notify the Commission of a replacement policy in accordance with subsection B.5 of this section, or (ii) apply for a license as an insurer, health maintenance organization, health services plan, or a dental or optometric services plan and be subject to all applicable provisions of Title 38.2 of the Code of Virginia. Such plan shall not be required to cease operations or discontinue benefits to existing members during this 30-day period. However, such plan shall not solicit, negotiate, procure, or effect coverage for new enrollments other than for dependents of employees already enrolled during this 30-day period. The plan shall cease operations and discontinue benefits at the end of this 30-day period unless (i) the plan has been licensed as required by this regulation, (ii) the plan becomes fully insured as defined in § 4.B of this regulation and has provided the Commission with proof of coverage as required by subsection B.5 of this section, or (iii) the plan is granted an extension by the Commission for good cause shown. Nothing contained in this section shall prevent the Commission from proceeding with an action in accordance with the provisions of § 7 of this regulation.

3. Any insurer, health maintenance organization, health services plan, or dental or optometric services plan providing coverage to a multiple employer welfare arrangement shall notify the Commission and the multiple employer welfare arrangement of any change or reduction in coverage at least 45 days prior to the effective date of such change or reduction in coverage.

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4. Any insurer, health maintenance organization, health services plan, or dental or optometric services plan failing to provide notice to the Commission as required by paragraph 3 of this subsection shall be required to continue coverage to the multiple employer welfare arrangement for an additional forty-five (45) days after notice of cancellation is provided to the Commission.

D. In addition to the filing requirements stated in subsection B of this section, each fully insured multiple employer welfare arrangement shall file on or before March 1 of each year (i) proof of coverage as set forth in subsection B.5 of this section and (ii) notice of any changes in information as filed with the Commission.

E. Any multiple employer welfare arrangement offering or providing coverage in this Commonwealth shall be subject to examination by the Commission in accordance with § 38.2-3422 of the Code of Virginia.

E. Application for initial license.

Any multiple employer health care plan desiring to provide coverage in this Commonwealth may apply to the Commission for a license on forms prescribed by the Commission and such application shall be verified by an officer, director, or authorized representative of the applicant. Each application for a multiple employer health care plan license, and all accompanying documents, shall be submitted in triplicate. Each application for a multiple employer health care plan license shall set forth or be accompanied by:

1. A complete description of the plan including (i) eligibility requirements for members; (ii) procedures for membership withdrawal and expulsion; (iii) any employee contributions; (iv) benefits provided; and (v) limitations and exclusions.

2. A copy of the constitution, articles of association, or bylaws of the trade association, industry association or professional association of employers or professionals which has established the multiple employer health care plan.

3. A copy of any trust agreement under which a trust fund is to exist and operate.

4. The names, addresses, and a biographical summary of the plan's trustees, officers, directors, or any other member of the governing body of the plan.

5. The names of persons who will solicit, negotiate, procure, or effect applications for coverage under the plan.

6. A listing of the names and addresses of the employers participating in the plan including those employers whose principal office or headquarters is located outside of Virginia.

7. A copy of the service contract or written agreement made with a third-party administrator. A copy of any service contract or written agreement to provide administrative services made with an insurer, health maintenance organization, nonstock health services plan, or nonstock dental or optometric services plan shall also be submitted.

8. The names, addresses, and professional qualifications of the individuals who are responsible for the conduct of the affairs of the plan's third-party administrator.

a. Such third-party administrator shall be approved by the Commission prior to licensure of the multiple employer health care plan. The Commission shall not approve any third-party administrator unless it is satisfied that the third-party administrator and all principals thereof are competent, trustworthy, financially responsible, and of good personal and business reputation, and have not had an insurance license denied for cause by any jurisdiction. In making this determination the Commission may request a financial statement of the third-party administrator including its balance sheet and receipts and disbursements for the three most recent years, or, if the third-party administrator is not currently acting in that capacity, a statement of the amounts and sources of the funds available for organization expenses and the proposed arrangements for reimbursement and compensation.

b. The Commission shall be given immediate notification of any change in the name or address of the plan's third-party administrator.

9. Financial statements showing the applicant's assets, liabilities, and sources of financial support and, if the applicant's financial affairs are audited by independent certified public accountants, a copy of the applicant's most recent regular certified financial statement, unless the Commission directs that additional or more recent financial information is required. The Commission may require that additional reports, exhibits, or statements be filed to furnish full information concerning the condition, solvency, experience, transactions, or affairs of the plan. The Commission may also require the plan to provide pro-forma financial statements showing the plan's projection of anticipated operating results for the following year.

10. A copy of the policy, contract, certificate, plan description, schedule of benefits, or other evidence of coverage provided to covered employees which shall contain a statement of the coverage provided; an explanation of the plan including the rights and benefits afforded the employee and his beneficiaries; any limitations and exclusions; and a provision respecting the rights to the continuance of the same or similar coverage upon termination of a

individual's coverage or termination of the plan. If the plan makes no provision for such rights to continue, the statement of coverage shall contain a specific declaration to that effect.

11. A copy of any risk sharing arrangement which shall meet the requirements set forth in subsection D of § 7 of this regulation.

12. A copy of a fidelity bond equal to an amount determined by the Commission and issued in the name of the multiple employer health care plan covering its trustees, employees, administrator, or other individuals handling funds or assets. In no case shall such bond be less than \$50,000.

13. A deposit of securities or surety bond with the Treasurer of Virginia in accordance with § 38.2-1045 of the Code of Virginia.

14. The total amount of each member's annual contribution and the basis for establishing the annual contribution of the plan's members. Such contributions shall be based on reasonable assumptions and certified as to the sufficiency of such contributions by an actuary or other person satisfactory to the Commission.

15. Any other information the Commission requires pertaining to the business of the multiple employer health care plan or the third-party administrator.

C. Issuance of license.

The Commission shall issue a license to a multiple employer health care plan after the receipt of a complete application and payment of the application fee required by subsection E of this section if the Commission is satisfied that the persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and possess good reputations and that the multiple employer health care plan is financially responsible and may reasonably be expected to meet its obligations to its members and their employees.

D. Exemptions.

1. The following multiple employer health care plans may request an exemption from this regulation:

a. Plans under which all of the covered benefits are guaranteed under a policy or contract of insurance issued by an insurance company licensed to do business in Virginia under Title 38.2 of the Code of Virginia or licensed in another state in accordance with the provisions set forth in paragraph 2 of this subsection.

b. Plans under which all of the covered benefits are provided either by (i) a nonstock health services plan licensed in Virginia under Chapter 42 of Title

38.2 of the Code of Virginia, (ii) a health maintenance organization licensed in Virginia under Chapter 43 of Title 38.2 of the Code of Virginia, (iii) a nonstock dental or optometric services plan licensed in Virginia under Chapter 45 of Title 38.2 of the Code of Virginia, or (iv) any combination thereof, except that such nonstock health services plan, health maintenance organization, or nonstock dental or optometric services plan may be licensed in another state in accordance with the provisions set forth in paragraph 2 of this subsection.

2. Any multiple employer health care plan requesting an exemption from this regulation must provide the Commission with proof of coverage from an insurer, health maintenance organization, nonstock health services plan, or nonstock dental or optometric services plan as required by paragraphs 1a and 1b of this subsection. Such insurer, health maintenance organization, nonstock health services plan, or nonstock dental or optometric services plan must be (i) licensed to do business in Virginia under Title 38.2 of the Code of Virginia, or (ii) in the case of a plan domiciled outside of Virginia, either licensed in Virginia or licensed in another state and meets the minimum solvency requirements established in Title 38.2 of the Code of Virginia. In no case shall an exemption granted under this regulation relieve any multiple employer health care plan from the disclosure requirements found in subsection A and subsection B of § 11 of this regulation.

3. If the multiple employer health care plan changes coverage or does not maintain full coverage as required by paragraphs 1a and 1b of this subsection, the plan shall immediately notify the Commission. Any plan which ceases to maintain full coverage shall, within 30 days of the date of coverage termination, (i) notify the Commission of a replacement policy, or (ii) apply for a license and be subject to all licensing and regulatory requirements as set forth herein. Such plan shall not be required to cease operations or discontinue benefits during this 30-day period. However, such plan shall cease operations and discontinue benefits at the end of this 30-day period unless the plan has been licensed in accordance with the provisions of this regulation or an extension has been granted by the Commission for good cause shown.

4. Approval for an exemption under this section of the regulation may be requested either by the multiple employer health care plan or the plan's administrator. The form shown in Appendix A of this regulation shall be used to provide the proof of coverage required by paragraph 2 of this subsection.

5. The requirement set forth in paragraph 4 of this subsection may be satisfied by an insurer, health maintenance organization, nonstock health services plan, or nonstock optometric or dental services plan

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on behalf of the multiple employer health care plan or plans for which it provides full coverage. The form shown in Appendix B of this regulation shall be used to provide proof of such coverage.

6. Within 30 days after requesting an exemption from this regulation and complying with the necessary provisions set forth in subsection D of this section of the regulation, the Commission shall notify the plan requesting the exemption of its approval or disapproval of the exemption, and, in the event of disapproval, its reason therefor. The Commission may, at its discretion, extend for up to an additional 30 days the period within which it shall approve or disapprove the exemption request. Any request for an exemption received but neither approved nor disapproved by the Commission shall be deemed approved at the expiration of the 30 days if the period is not extended, or at the expiration of the extended period, if any.

E. Application fee.

Each application for a multiple employer health care plan license must be accompanied by a nonrefundable application fee of \$500 as required by § 38.2-1024 of the Code of Virginia.

F. Renewal of license.

Each multiple employer health care plan license in Virginia shall obtain from the Commission annually a renewal of its license in accordance with § 38.2-1025 of the Code of Virginia.

G. Filing of annual report.

1. Every multiple employer health care plan shall annually, on or before March 1, file with the Commission on a form prescribed by the Commission:

a. A financial statement of the plan including its balance sheet and receipts and expenses for the preceding year;

b. Any material changes in the information submitted pursuant to subsection B of this section;

c. Any other information the Commission requires including additional reports, exhibits, or statements concerning the condition, solvency, experience, transactions, or affairs of the plan.

2. The Commission may require a financial statement to be filed on a quarterly basis if it finds that the financial condition of a multiple employer health care plan has changed significantly and that the filing of such quarterly statement would be in the best interests of the plan's participants, members, and creditors.

H. Licensure does not imply approval of forms.

Approval of a multiple employer health care plan's license application shall not constitute approval of the forms submitted under subsection E, paragraph 10 of this section. Approval of such forms shall be governed by § 10 of this regulation.

§ 7. Financial condition requirements.

A. Minimum deposit; surety bond in lieu of deposit.

Each multiple employer health care plan shall be subject to the provisions set forth in Article 7 (§ 38.2-1045 et seq.) of Chapter 10 of Title 38.2 regarding the deposit of securities, surety bonds entered in lieu of deposits, and all other applicable provisions contained in the article.

B. Minimum surplus.

Each multiple employer health care plan shall maintain at all times a minimum unimpaired surplus equal to an amount not less than the average anticipated incurred operating and claims expenses for a period of not less than 30 days. The Commission may require that such surplus amount be based upon the anticipated operating and claims expenses for a reasonable period in excess of 30 days. The method of calculation shall be determined by the Commission.

C. Reserves.

Each multiple employer health care plan shall comply with the provisions set forth in § 38.2-1311 of the Code of Virginia pertaining to valuation reserves. Each multiple employer health care plan shall also comply with the provisions established in § 38.2-1314 of the Code of Virginia pertaining to loss or claim reserves.

D. Risk sharing arrangements.

The Commission may, at its discretion, require a multiple employer health care plan to provide evidence of an adequate risk sharing arrangement. Such risk sharing arrangement may include provisions to cover incurred, unpaid claim liability in the event of discontinuance of the plan. Such arrangement shall be subject to all group accident and sickness insurance laws in Title 38.2 of the Code of Virginia and § 10 of this regulation if the policy is delivered or issued for delivery to a multiple employer health care plan domiciled in Virginia. In addition, any insurer providing this coverage shall be required to meet all minimum solvency requirements established in this Commonwealth and shall be required to be licensed in at least one state, territory, district, or insular possession of the United States.

E. Investments.

Any funds or assets invested by a multiple employer health care plan shall be invested only in securities or other investments permitted by the laws of this Commonwealth as set forth in paragraphs 1 through 3 and

through 7 of subsection A of § 38.2-1414, §§ 38.2-1415 through 38.2-1419, 38.2-1421, 38.2-1423 through 38.2-1426, and 38.2-1432 of Title 38.2 of the Code of Virginia in addition to investments allowed by § 2.1-327 (legal investments for public sinking funds) and § 2.1-328 (legal investments for other public funds).

Other investments may be made subject to the approval of the Commission. This provision shall apply to every multiple employer health care regardless of its place of domicile unless the investments of any plan domiciled outside of this Commonwealth are regulated by the laws of its state or country of domicile.

F. Valuation standards.

The provisions set forth in §§ 38.2-1307 through 38.2-1310 of the Code of Virginia shall apply to the valuation of stocks, bonds, and other securities owned by a multiple employer health care plan providing coverage in this Commonwealth.

G. Rehabilitation, liquidation, or conservation.

1. Except as provided in paragraph 2 of this subsection, any rehabilitation, liquidation, or conservation of a multiple employer health care plan shall be deemed to be the rehabilitation, liquidation, or conservation of an insurance company and shall be conducted under the supervision of the Commission pursuant to the law governing the rehabilitation, liquidation, or conservation of insurance companies. The Commission may start proceedings in accordance with Chapter 15 of Title 38.2 of the Code of Virginia directing the rehabilitation, liquidation, or conservation of a multiple employer health care plan upon any one or more grounds set out in Chapter 15 of Title 38.2 of the Code of Virginia or when in the Commission's opinion the continued operation of such plan would be hazardous either to the plan participants or the people of this Commonwealth.

2. A multiple employer health care plan shall not be covered under the Virginia Life, Accident and Sickness Insurance Guaranty Association Act set forth in Chapter 17 of Title 38.2 of the Code of Virginia.

H. Assessments.

The expense of administering the insurance laws of this Commonwealth shall be assessed annually against all multiple employer health care plans providing coverage in this Commonwealth and subject to this regulation. Such assessments shall be made in accordance with the provisions set forth in § 38.2-400 and §§ 38.2-403 through 38.2-406 of the Code of Virginia. For the purpose of this regulation the term "direct gross premium income" as referred to in these sections of Title 38.2 shall be construed to mean the gross amount of all contributions collected, received, or derived from business in this Commonwealth during each year ending December 31

without deduction for dividends paid or deduction on any other account except for premiums returned on cancelled policies or contracts or for premiums returned on account of reduction in rates or reduction in the amount insured.

I. Compliance.

Each multiple employer health care plan shall have six months from the effective date of this regulation to comply with the financial requirements set forth in this section, except that, for good cause shown, the Commission may grant an extension not to exceed 12 additional months in order to bring the multiple employer health care plan into compliance with the financial requirements of this section.

§ 8. General requirements.

A. Administration.

A board of trustees, a board of directors, or other governing body elected by the members of a multiple employer health care plan shall have the responsibility of and complete control over the plan, and shall appoint or contract with an authorized third-party administrator to administer the day-to-day operations of the plan. The majority of the board of trustees, board of directors, or other governing body shall consist of owners, partners, officers, directors, or employees of one or more members in the plan. Such trustee, director, or member of the governing body may not be an owner, officer, or employee of a third-party administrator of the plan.

B. Fiduciary responsibilities.

Any third-party administrator, officer, director, trustee, or member of a multiple employer health care plan, or any employee of such member, who receives, collects, disburses, or invests funds in connection with the activities of the plan shall be responsible for the funds in a fiduciary relationship with the multiple employer health care plan.

C. Additional requirements for third-party administrators.

Every third-party administrator of a multiple employer health care plan shall be subject to the following provisions:

1. Funds collected by a third-party administrator shall be immediately remitted to the person entitled to the funds or deposited into a fiduciary bank account, which shall be established and maintained by the third-party administrator.

2. The third-party administrator shall maintain records clearly showing the deposits and withdrawals from the fiduciary bank account for each party with whom it has a written agreement for administrative services. The administrator shall furnish to the party, upon request, copies of the required records.

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3. All claims paid by the third-party administrator from funds collected on behalf of a multiple employer health care plan shall only be paid on drafts authorized by that plan.

D. Examination of books, records and accounts.

The Commission shall make or direct an examination of the affairs of any multiple employer health care plan or third-party administrator providing or administering coverage in this Commonwealth in accordance with the provisions set forth in Article 4 (§ 38.2-1317 et seq.) of Chapter 13 of Title 38.2 of the Code of Virginia. Each multiple employer health care plan that is licensed in Virginia and every third-party administrator shall maintain proper accounting controls and shall keep adequate, correct, and complete books and records of accounts. Such books and records shall be made available to the Commission during normal business hours.

§ 9. Prohibited practices.

A. Unfair trade practices prohibited.

No multiple employer health care plan or third-party administrator shall engage in any unfair trade practices as set forth in Chapter 5 of Title 38.2 of the Code of Virginia or Commission regulations promulgated thereunder.

B. Certain pecuniary interests prohibited.

No trustee, director, third-party administrator, or other person having responsibility for the management of a multiple employer health care plan or the investment or other handling of the plan's funds shall:

1. Receive directly or indirectly or be pecuniarily interested in any fee, commission, compensation, or emolument, other than salary or other similar compensation regularly fixed and allowed for services regularly rendered to the plan, arising out of any transaction to which the plan is or is to be a party, unless this has been fully disclosed to the plan's members;

2. Receive compensation as a consultant to the plan while also acting as a trustee, director, or administrator, or as an employee of such trustee, director, or administrator, unless this has been fully disclosed to the plan's members; or

3. Have any direct or indirect material pecuniary interest in any loan or investment of the plan's funds.

C. Terminations.

No multiple employer health care plan shall terminate coverage without first giving 30 days written notice of termination to its members and participating employees.

§ 10. Filing requirements.

A. Form filing.

1. Except as provided in paragraph 2 of this subsection, no contract, certificate, schedule of benefits, evidence of coverage, application, enrollment form, or any amendment thereto, shall be delivered, issued for delivery, or put into effect by or on behalf of any multiple employer health care plan domiciled in this Commonwealth until a copy of such form or amendment thereto has been filed with and approved by the Commission pursuant to the filing requirements specified in § 38.2-316 of the Code of Virginia. If the Commission does not disapprove any form within 30 days of the filing of such form, it shall be deemed approved unless the filer is notified in writing that the waiting period is extended by the Commission for an additional 30 days.

2. Any multiple employer health care plan that uses a form previously approved for use by the Commission for any other plan or organization pursuant to the filing requirements set forth in § 38.2-316, may be exempted from the requirements set forth in paragraph 1 of this subsection by notifying the Commission of (i) the approval date of such form; (ii) the form number; (iii) the name of the entity currently using the form; and (iv) the name of the entity issuing the form if different than (iii) above.

B. Mandated benefits.

No contract, certificate, schedule of benefits, evidence of coverage, or any amendment thereto, shall be delivered, issued for delivery, or put into effect by or on behalf of any multiple employer health care plan domiciled in this Commonwealth unless it has complied with the mandated benefits provisions set forth in §§ 38.2-3408 through 38.2-3419 of the Code of Virginia.

C. Filing of schedule of charges.

No schedule of charges or contributions, or any amendment thereto, may be put into effect in conjunction with any multiple employer health care plan domiciled in this Commonwealth until a copy of such schedule, or amendment thereto, has been filed with the Commission pursuant to the filing requirements specified in § 38.2-316 of the Code of Virginia.

§ 11. Disclosure requirements.

A. Any multiple employer health care plan that is not fully insured or fully covered by an insurer, health maintenance organization, nonstock health services plan, or nonstock dental or optometric services plan licensed in Virginia shall be required to disclose this information in any of its advertising.

B. Any multiple employer health care plan that is not fully insured or fully covered by a licensed Virginia insurer or a licensed Virginia nonstock health services

State Corporation Commission

lan shall be required to disclose in any of its advertising that, in the event of an insolvency in connection with the plan, a person covered under the multiple employer health care plan may be unable to collect any amount owed by the plan regardless of the coverage provided under such plan.

C. The name, address, and phone number of the multiple employer health care plan's administrator shall be disclosed to any person covered under the plan. The name, address, and phone number of the plan's insurer or other carrier providing coverage shall also be disclosed to any person covered under the plan if such plan has not received an exemption from the regulation pursuant to subsection D of § 6.

D. Any risk sharing arrangement which is in effect shall be disclosed as provided for in § 38.2-3424.

E. The provisions set forth in Chapter 6 of Title 38.2 pertaining to insurance information and privacy protection shall apply to multiple employer health care plans and to any person that sells, transacts, or administers coverage under such a plan or that collects, receives, or maintains information in connection with such coverage.

§ 12. § 6. Licensing of persons soliciting, negotiating, procuring, or effecting applications for coverage.

A. No person shall solicit, negotiate, procure, or effect applications for coverage or member enrollments, and no multiple employer health care plan *welfare arrangement*, third-party administrator, insurer, health maintenance organization, nonstock health services plan, or nonstock dental or optometric services plan shall knowingly permit a person to solicit, negotiate, procure, or effect applications for coverage or member enrollments, in this Commonwealth for a multiple employer health care plan *welfare arrangement* whether or not the plan is licensed in this Commonwealth without first obtaining a license as a life and health agent, and an appointment, if such appointment is required, in a manner and in a form prescribed by the Commission pursuant to Chapter 18 of Title 38.2 of the Code of Virginia.

B. Any person who solicits, negotiates, procures, or effects applications or member enrollments in this Commonwealth for coverage under a multiple employer health care plan *welfare arrangement* shall be subject to all appropriate provisions of Title 38.2 as set forth in Chapters 2, 3, 5, 6, and 18 of the Code of Virginia regarding the conduct of his business.

C. Salaried officers or employees of any employer which provides coverage through a multiple employer health care plan *welfare arrangement* shall not be required to be licensed under this section provided that the principal duties and responsibilities of such officers and employees do not include soliciting, negotiating, procuring, or effecting applications for coverage or member enrollments for the plan.

§ 13. § 7. Violations.

Any violation of this regulation shall be punished as provided for in § 38.2-218 of the Code of Virginia and any applicable law of this Commonwealth. The provisions of §§ 38.2-219 through 38.2-222 shall also apply to any multiple employer health care plan *welfare arrangement* or third-party administrator that fails to comply with the provisions set forth in this regulation.

§ 14. Suspension or revocation of license.

A. The Commission may suspend or revoke the license of any multiple employer health care plan whenever it finds that the plan:

1. Has refused to submit its books, papers, accounts, or affairs to the reasonable inspection of the Commission or its representative;
2. Has refused, or its officers or agents have refused, to furnish satisfactory evidence of its financial and business standing or solvency;
3. Is insolvent, or is in a condition that any further transaction of business in this Commonwealth is hazardous to its participants, members, and creditors;
4. Has failed to pay a final judgment against it within 60 days after (i) the judgment became final, (ii) the time for making an appeal has expired, or (iii) the dismissal of an appeal before final determination, whichever date is the latest;
5. Has violated any law of this Commonwealth, or has in this Commonwealth violated its charter or exceeded its corporate powers;
6. Has failed to pay any fees, taxes or charges imposed in this Commonwealth within 60 days after they are due and payable, or within 60 days after final disposition of any legal contest with respect to liability for the fees, taxes or charges;
7. Has had its certificate of authority revoked in the state in which it was organized;
8. Has been found insolvent by a court of any other state, or by the Commission or other proper officer or agency of any other state, and has been prohibited from doing business in that state;
9. Has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;
10. Has failed to comply with the provisions set forth in § 10 of this regulation; or
11. Has otherwise failed to substantially comply with the provisions of this regulation.

State Corporation Commission

E. When the license of a multiple employer health care plan is suspended, the plan shall not enroll any additional participants during the period of the suspension except newborn children or other newly acquired dependents of existing participants, and shall not engage in any advertising or solicitation.

application of such provision to other persons or circumstances shall not be affected thereby.

C. The Commission shall not revoke or suspend the license of a multiple employer health care plan upon any of the grounds set out in subsection A of this section until it has given the plan 10 days' notice of the proposed revocation or suspension and the grounds for it, and has given the plan an opportunity to introduce evidence and be heard. However, the Commission may immediately suspend the license on the grounds specified in paragraphs 7 or 8 of subsection A of this section without prior notice to the plan. The suspension shall remain in force until the hearing is held. Any hearing authorized by this section may be informal. The required notice may be waived by the Commission and the multiple employer health care plan.

D. When the license of a multiple employer health care plan is revoked, the plan shall proceed to wind up its affairs, immediately following the effective date of the order of revocation. The plan shall conduct no further business except as may be essential to the orderly conclusion of its affairs. It shall engage in no further advertising or solicitation. The Commission may, by written order, permit further operation of the plan that it finds to be in the best interests of participants for the purpose of giving them the greatest practical opportunity to obtain continuing health care coverage.

§ 15. § 8. Service of process.

Suits, actions, and proceedings may be begun against any multiple employer health care plan *welfare arrangement* providing coverage in this Commonwealth by serving process on any trustee, director, officer, or agent of the plan, or, if none can be found, on the clerk of the Commission. No multiple employer health care plan license shall be issued to any nonresident of this Commonwealth unless such nonresident executes a power of attorney appointing the clerk of the Commission and his successors in the office as the agent for service of process in any action or proceeding arising in this state out of or in connection with the exercise of such license. If any multiple employer health care plan *welfare arrangement that is not fully insured* provides coverage in this Commonwealth without *obtaining a license as required by § 5 of this regulation*, it shall be deemed to have thereby appointed the Clerk of the Commission its attorney for service of process. Service of process shall be made as provided for in Article 1 of Chapter 8 of Title 38.2.

§ 16. § 9. Severability.

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the

Appendix-A

Proof-of-Coverage

Filed-with-the-State-Corporation-Commission-By

{Name-of-Multiple-Employer-Health-Care-Plan}

{Name-of-Administrator}

I-hereby-certify-to-the-best-of-my-knowledge-that-the-following insurance-policy-(nonstock-health-services-contract,-nonstock dental-or-optometric-services-contract,-or-health-maintenance organization-contract)-has-been-issued-to-provide-the-above-named applicant,-its-members-and-its-participants,-full-coverage-of-the covered-benefits-for-the-policy-period-stated-below-

Name-of-Carrier---Policy-#---Effective-Date---Expiration-Date

{Signature}

{Title}

{Date}

Please-attach-policy-declarations-or-specifications-page-

State Corporation Commission

Appendix-B

Proof-of-Coverage

Filed-with-the-State-Corporation-Commission-by

(Name-of-Company)

On-behalf-of

(Name-of-Multiple-Employer-Health-Care-Plan-or-Plans)

I hereby certify to the best of my knowledge that -----
Name-of-Company
has issued an insurance policy (nonstock health services
contract, nonstock dental or optometric services contract, or
health maintenance organization contract) to each plan named
above, its members and its participants, and that this policy or
contract provides full coverage of the covered benefits for the
policy period stated below.

Name-of-Plan -- Policy-# -- Effective-Date -- Expiration-Date

(Signature)

(Title)

(Date)

Please attach policy declarations or specifications page(s) for
each plan.

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER NINETEEN (91)

"DOUBLE TAKE"; PROMOTIONAL GAME AND DRAWING RULES

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Double Take" promotional game and drawing rules for the kickoff events which will be conducted at various lottery retailer locations throughout the Commonwealth on Thursday, August 29, 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 until August 30, 1991, unless otherwise extended by the Director.

/s/ Kenneth W. Thorson
Director
Date: August 14, 1991

DIRECTOR'S ORDER NUMBER TWENTY (91)

VIRGINIA'S SIXTH INSTANT GAME LOTTERY; "PHOTO FINISH," END OF GAME

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby give notice that Virginia's sixth instant game lottery, "Photo Finish," will officially end at midnight on Thursday, August 29, 1991. The last day for lottery retailers to return for credit unsold tickets from "Photo Finish" will be Thursday, September 19, 1991. The last day to redeem winning tickets for "Photo Finish" will be Tuesday, February 25, 1992, 180 days from the declared official end of the game. Claims for winning tickets from "Photo Finish" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a postmark of February 25, 1992, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson
Director
Date: August 9, 1991

DIRECTOR'S ORDER NUMBER TWENTY-ONE (91)

VIRGINIA'S SEVENTEENTH INSTANT GAME LOTTERY; "FAST SCRATCH," END OF GAME

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby give notice that Virginia's seventeenth instant game lottery, "Fast Scratch," will officially end at midnight on Thursday, September 26, 1991. The last day for lottery retailers to return for credit unsold tickets from "Fast Scratch" will be Thursday, October 17, 1991. The last day to redeem winning tickets for "Fast Scratch" will be Tuesday, March 24, 1992, 180 days from the declared official end of the game. Claims for winning tickets from "Fast Scratch" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a postmark of March 24, 1992, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson
Director
Date: August 9, 1991

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

REAL ESTATE BOARD

Title of Regulation: VR 585-01-05. Fair Housing Regulation.

Governor's Comment:

These regulations are intended to enforce the Virginia Fair Housing Law and to conform Virginia law with federal fair housing law. Pending public comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder
Governor
Date: August 20, 1991

DEPARTMENT OF WASTE MANAGEMENT

Title of Regulation: VR 672-50-11. Regulations for the Certification of Recycling Machinery and Equipment for Tax Exemption Purposes.

Governor's Comment:

As the regulations encourage recycling, I recommend approval pending public comment.

/s/ Lawrence Douglas Wilder
Governor
Date: August 20, 1991

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Pesticide Control Board

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Pesticide Control Board intends to consider amending regulations entitled: **VR 115-04-20. Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services under the Virginia Pesticide Control Act.** The purpose of the proposed action is to amend regulation VR 115-04-20, § 2.1 Pesticide Product Registration Fee, to establish a cut-off date for the renewal of product registrations and to establish a penalty when payment for renewal of registration is made after the cut-off date.

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until 5 p.m., September 30, 1991.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, P. O. Box 1163, Room 401, 1100 Bank Street, Richmond, VA 23209, telephone (804) 371-6558.

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 promulgating regulations entitled: **Rules Relating to the Court Appointed Special Advocate Program (CASA).** The purpose of the proposed action is to develop and administer rules regarding the administration and operation of local Court Appointed Special Advocate Programs (CASA)

Statutory Authority: § 9-173.6 of the Code of Virginia.

Written comments may be submitted until September 30, 1991, to Francine Ecker, Department of Criminal Justice Services, 805 East Broad Street, 10th Floor, Richmond, Virginia 23219.

Contact: Paula Scott, Staff Executive, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730.

DEPARTMENT OF GENERAL SERVICES

Division of Forensic Science

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 promulgating regulations entitled: **VR 330-05-01. Regulations for the Approval of Field Tests for Detection of Drugs.** The purpose of the proposed action is to establish requirements for approval of field tests for drugs by the Division of Forensic Science, Department of General Services. This approval will permit any law enforcement officer to use these field tests and testify to their results in any preliminary hearing on a drug violation.

Statutory Authority: § 19.2-188.1 of the Code of Virginia.

Written comments may be submitted until September 9, 1991.

Contact: Paul B. Ferrara, Ph.D., Division Director, Division of Forensic Science, 1 North 14th Street, Richmond, VA 23219, telephone (804) 786-2281.

General Notices/Errata



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 355-28-300. Regulations Governing the Immunization of School Children.** The purpose of the proposed action is to make the regulations consistent with the current recommendations of the U.S. Public Health Service.

Statutory Authority: §§ 22.1-271.1, 22.1-271.2, 32.1-12 and 32.1-46 of the Code of Virginia.

Written comments may be submitted until October 1, 1991, to A. Martin Cader, M.D., Virginia Department of Health, P.O. Box 2448, Room 113, Richmond, Virginia 23218.

Contact: Marie Krauss, Executive Secretary, Virginia Department of Health, Division of Communicable Disease Control, P.O. Box 2448, Room 113, Richmond, VA 23218, telephone (804) 786-6261.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending

regulations entitled: **Pharmacy Drug Utilization Review Requirements.** The purpose of the proposed action is to conform to the Congressional mandates in the Omnibus Budget Reconciliation Act of 1990 § 4401 with respect to pharmacy services.

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

Written comments may be submitted until September 23, 1991, to Rebecca Miller, Pharmacy 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 East Broad Street, Suite 1300, Richmond, Virginia 23219, telephone (804) 786-7933.

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-07-01. 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.

DEPARTMENT OF MOTOR VEHICLES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider repealing existing regulations and promulgating new regulations entitled: **Public Participation Guidelines for Regulation Development and Promulgation.** The purpose of the proposed action is to establish guidelines for receiving input and participation from interested citizens in the development of any regulations which the department proposes.

Statutory Authority: §§ 46.2-203 and 9-6.14:7.1 of the Code

of Virginia.

Written comments may be submitted until September 23, 1991, to Nancy G. LaGow, P. O. Box 27412, Richmond, Virginia 23269.

Contact: Bruce Gould, Planning Supervisor, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-0453.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider amending regulations entitled: **VR 485-10-9001. Commercial Driver Training School Regulations.** The purpose of the proposed action is to propose revisions which are intended to provide closer administrative oversight authority of the schools' activities. Under the current regulations, DMV has been unable to ensure consumer protection. Additionally, DMV has been unable to enforce the basic provisions of the current regulations.

Statutory Authority: §§ 46.2-203 and 46.2-1703 of the Code of Virginia.

Written comments may be submitted until October 7, 1991.

Contact: Mark E. Smith, Program Manager, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-2447.

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 54.1-2100 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 615-34-01. Minimum Standards for the Voluntary Registration of Small Family Day Care Homes.** The purpose of the proposed action is to develop minimum standards for voluntarily registered small family day care homes and to develop standards for the issuance of contracts to qualified local agencies and community organizations that register these homes. Emergency regulations will initially be developed to meet the legislative deadline of January 1, 1992.

Statutory Authority: § 63.1-196.04 of the Code of Virginia.

Written comments may be submitted until September 26, 1991.

Contact: Peggy Friedenberg, Legislative Analyst, Department of Social Services, Bureau of Governmental Affairs, 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.

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

Written comments may be submitted until September 12,

General Notices/Errata

1991, to Catherine A. Loveland, Division of Licensing Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenberg, Executive Assistant, 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 promulgating regulations entitled: **Child Day Care Policy**. The purpose of the proposed action is to provide the Department of Social Services with basic policy and operating principles in the provisions of child day care services.

Statutory Authority: §§ 63.1-33.17, 63.1-33.24, 63.1-55 and 63.1-148 of the Code of Virginia.

Written comments may be submitted until October 31, 1991, to Bennet Greenberg, Program Manager, Child Day Care, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenberg, Legislative Analyst, Department of Social Services, Bureau of Governmental Affairs, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commonwealth Transportation Board intends to consider amending regulations entitled: **VR 385-01-09. Public Participation Guidelines**. The purpose of the proposed action is to revise the agency's guidelines to facilitate timelines in promulgating regulations while preserving public awareness of the new or amended regulations.

Statutory Authority: §§ 33.1-12 and 9-6.14:1 of the Code of Virginia.

Written comments may be submitted until September 26, 1991.

Contact: Larry D. Jones, Division Administrator, Management Services Division, Room 712, Hwy. Annex, 1401 E. Broad Street, Richmond, VA 23219, telephone (804) 786-7712.

DEPARTMENT OF YOUTH AND FAMILY 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 Youth and Family Services intends to consider promulgating regulations entitled: **Rules and Regulations Governing the Certification Process**. The purpose of the proposed action is to describe procedures for certifying facilities and programs.

Statutory Authority: § 66-10 of the Code of Virginia.

Written comments may be submitted until October 1, 1991.

Contact: Paul Steiner, Policy Coordinator, P. O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0700.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Youth and Family Services intends to consider promulgating regulations entitled: **Standards for Secure Detention Homes**. The purpose of the proposed action is to establish standards for the care and custody of youth in detention homes.

Statutory Authority: § 66-10 of the Code of Virginia.

Written comments may be submitted until October 1, 1991.

Contact: Paul Steiner, Policy Coordinator, P. O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0700.

GENERAL NOTICES

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

† Notice of Grant Programs

The Department of Housing and Community Development was designated administering agency for distribution of state funds appropriated by the General Assembly under the SHARE-Shelter Support Grant Program, SHARE-Homeless Intervention Program, the Seed Money Program, the Emergency Home Repair Program, and the Indoor Plumbing Program for the 1991 session. The programs will operate at locations throughout the state, with the funding accessible to local administrators/project sponsors on an annual competitive cycle. Informal advisory committees were established to gather input on program

design.

Notice is hereby given of the availability of grants to eligible local administrators/project sponsors under the SHARE-Shelter Support Grant Program (application deadline- April 2, 1991; amount available statewide- \$709,120), the SHARE-Homeless Intervention Program (continued funding at eight demonstration sites; amount available- \$1,226,000), the Seed Money Program (application deadline- May 1, 1991; amount available statewide- \$337,500), the Emergency Home Repair Program (application deadline- April 8, 1991; amount available statewide- \$225,000), and the Indoor Plumbing Program (no application schedule established at this time; amount available statewide- \$2,300,000).

For requesting program information or application manual contact: Rebecca C. Miller, Program Manager, Virginia Department of Housing and Community Development, 205 N. Fourth Street, Richmond, VA 23219, telephone (804) 786-7891.

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 County of Appomattox and the Towns of Appomattox and Pamplin. The County of Appomattox will be the 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 Wednesday, October 9, 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 Counties of Bland and Wythe and the Towns of Wytheville and Rural Retreat. The County of Wythe will be the 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 Wednesday, October 9, 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 Brunswick and the Towns of Alberta, Brodnax and Lawrenceville. The County of Brunswick will be the 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

General Notices/Errata

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 Wednesday, October 9, 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 Campbell and the Towns of Altavista and Brookneal. The County of Campbell will be the 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 Wednesday, October 9, 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 Craig and the Town of New Castle. The County of Craig will be the 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 Wednesday, October 9, 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 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 local governments of the County of Floyd and the Town of Floyd. The County of Floyd will be the 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 Wednesday, October 9, 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 Scott and the Towns of Clinchport, Duffield, Dungannon and Nickelsville. The County of Scott will be the 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

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region should respond in writing by 5 p.m. on Wednesday, October 9, 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 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 Counties of Lancaster, Northumberland, Richmond and Westmoreland and the Towns of Warsaw, Irvington, Kilmarnock, White Stone, Montross and Colonial Beach. The Northern Neck Planning District Commission will be the 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 Wednesday, October 9, 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 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.

General Notices/Errata

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.

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
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

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-14-07. Oil Discharge Contingency Plans and Administrative Fees for Approval.

Publication: 7:22 VA.R. 3439-3449 July 29, 1991

Correction to Proposed Regulation:

Page 3439, the definition of "oil" should read:

"...oil mixed with other wastes, crude oils and all other liquid hydrocarbons..."

Page 3442, the last sentence of § 5 D should read:

An approved copy shall be retained on the facility or tank vessel and shall be readily available for inspection.

Page 3443, § 6 C c should read:

For a facility with an aggregate capacity greater than 1,000,001 gallons of oil the fee is \$5200.

Page 3443, § 6 D should read:

The fee for approval of contingency plans encompassing more than one tank barge or facility, as authorized by §§ 5 E and 5 F of this regulation, shall be based on the aggregate capacity of the tank barges or the facilities.

Page 3443, § 6 E should read:

Application fees are refundable upon receipt of a written request no later than 30 days after submittal and prior to approval.

Page 3443, § 6 F should read:

Overpayments of application fees are refundable upon written request. Overpayments not refunded will be credited for the applicants future use under this section.

Page 3443, § 7 should read:

The executive director, or his designee, may perform any act of the board under this regulation, except as limited by Virginia Code § 62.1-44.14.

DEPARTMENT OF TRANSPORTATION

Title of Regulation: VR 385-01-03. Rules and Regulations Governing Relocation Assistance.

Publication: 6:7 V.A.R. 1072-1077 January 1, 1990. The regulation was not published due to its length. Therefore, the correction refers to the page numbers in the manual, not the Virginia Register.

Correction to Final Regulation:

Page 10, § 404.01, the definition should read as follows:

p. CONTRIBUTES MATERIALLY - The term "contributes materially" means that during the two taxable years prior to the taxable year in which displacement occurs, or during such other period as the Department determines to be more equitable, a business or farm operation:

- (1) Had average annual gross receipts of at least \$5,000; or
- (2) Had average annual net earning of at least \$1,000; or
- (3) Contributed at least 33 1/3 percent of the owner's or operator's average annual gross income from all sources.

Page 43, § 404.03, the first full sentence should read:

The Department will not honor any claim for storage cost when the personal property is stored on the property being acquired or on other property owned or leased by the displacee.

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.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Pesticide Control Board

September 12, 1991 - 10 a.m. - Open Meeting
September 13, 1991 - 9 a.m. - Open Meeting
Sheraton-Fredericksburg Resort & Conference Center, I-95 & Virginia Route 3, P.O. Box 618, Fredericksburg, Virginia. ☒

10 a.m., September 12, 1991 - Pesticide Control Board committee meetings.

4 p.m., September 12, 1991 - Tour of PermaTreat, Inc., hosted by board member Joseph R. Wilson.

9 a.m., September 13, 1991 - Pesticide Control Board will conduct general business meeting.

Portions of the meeting may be held in closed session, pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the Pesticide Control Board's agenda at 9 a.m., September 13, 1991.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Virginia Department of Agriculture and Consumer Services, P. O. Box 1163, Room 401, 1100 Bank Street, Richmond, VA 23209, telephone (804) 371-6558.

STATE AIR POLLUTION CONTROL BOARD

† October 1, 1991 - 9 a.m. - Open Meeting
Sheraton Airport Inn, Richmond, Virginia. ☒

The board will conduct its annual meeting in conjunction with the State Advisory Board on Air Pollution.

Contact: Dr. Kathleen Sands, Information Services Manager, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

DEPARTMENT OF AIR POLLUTION CONTROL

State Advisory Board on Air Pollution

September 9, 1991 - 9 a.m. - Open Meeting
James Monroe Building, Meeting Room D, Richmond, Virginia. ☒

The board will discuss strategies for reducing nitrogen oxide emissions from both stationary and mobile sources. The meeting is open to the public.

Contact: Dr. Kathleen Sands, Information Services Manager, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

ALCOHOLIC BEVERAGE CONTROL BOARD

September 16, 1991 - 9:30 a.m. - Open Meeting

Calendar of Events

September 30, 1991 - 9:30 a.m. - Open Meeting
October 9, 1991 - 9:30 a.m. - Open Meeting
October 28, 1991 - 9:30 a.m. - Open Meeting
2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, P. O. Box 27491, 2901 Hermitage Road, Richmond, VA 23261, telephone (804) 367-0616.

* * * * *

October 30, 1991 - 10 a.m. - Public Hearing
2901 Hermitage Road, First Floor Hearing Room,
Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Alcoholic Beverage Control Board intends to amend regulations entitled: VR 125-01-1. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations; VR 125-01-2. Advertising; VR 125-01-3. Tied House; VR 125-01-5. Retail Operations; VR 125-01-6. Manufacturers and Wholesalers Operations; and VR 125-01-7. Other Provisions. The amendments relate to (i) streamlining the rulemaking procedures; (ii) allowing individuals of legal drinking age to place mail orders for alcoholic beverages with Virginia retail licensees; (iii) permitting alcoholic beverage advertising on certain antique vehicles for promotional purposes and on billboards located within facilities used primarily for professional or semiprofessional sporting events; (iv) increasing the wholesale value limit of novelty and specialty items which may be given away; (v) allowing manufacturers of alcoholic beverages to sponsor an entire season of athletic and sporting events; (vi) permitting wholesalers to deliver and merchandise wine and beer on Sundays; (vii) standardizing minimum monthly food sale requirements for retail licenses; (viii) allowing manufacturers, bottlers and wholesalers of alcoholic beverages to place public safety advertisements in college student publications; (ix) permitting retail licensees to use electronic fund transfers to pay wholesale licensees for purchases of alcoholic beverages or beverages; (x) clarifying that the placement of alcoholic beverages in containers of ice near cash registers and doors and public display areas by off-premises licensees is an enticement to purchase alcoholic beverages; (xi) making interior advertising less restrictive for on-premises licensees; and (xii) expanding the types of businesses eligible for off-premises wine and beer licenses by creating a new category which does not require minimum monthly food sale requirements.

Statutory Authority: §§ 4-7 (1), 4-11, 4-36, 4-69, 4-69.2,

4-72.1, 4-98.14, and 4-103(b) of the Code of Virginia.

Written comments may be submitted until 10 a.m., October 16, 1991.

Contact: Robert N. Swinson, Secretary to the Board, P. O. Box 27491, 2901 Hermitage Road, Richmond, VA 23261, telephone (804) 367-0616.

ALCOHOL SAFETY ACTION PROGRAM - ROCKINGHAM/HARRISONBURG

† September 19, 1991 - 7 p.m. - Open Meeting
ASAP Office, 44 East Market Street, Harrisonburg, Virginia.
☒

A quarterly board meeting.

Contact: Pam Simmons, Director, 44 East Market Street, Harrisonburg, Virginia 22801, telephone (703) 434-0154.

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.

† September 19, 1991 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to (i) approve minutes of August 1, 1991 meeting; (ii) review correspondence; and (iii) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

* * * * *

† November 21, 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 Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to amend regulations entitled: VR 130-01-2. Board for Architects, Professional

Calendar of Events

Engineers, Land Surveyors and Landscape Architects Rules and Regulations. The proposed regulations will regulate the practice of architecture, engineering, land surveying, landscape architecture and interior design as well as the professional corporations and business entities that offer those services.

STATEMENT

Basis, Purpose, Substance, Issues and Impact: Pursuant to § 54.1-404 of the Code of Virginia, the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects proposes to amend its regulations to include qualifications for certification of interior designers. Additions and deletions have also been made governing the licensure and certification of architects, professional engineers, land surveyors and landscape architects as well as the registration of professional corporations and business entities offering such services.

The regulations apply directly to approximately 26,000 licensees and certificate holders and registrants and indirectly to clients utilizing these professional services. The regulations provide for entry requirements for licensure, certification or registration as well as the standards of practice and conduct for those professions.

Statutory Authority: § 54.1-404 of the Code of Virginia.

Written comments may be submitted until 10 a.m., November 21, 1991.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

Board for Land Surveyors

† **September 13, 1991 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☐

A meeting to (i) approve minutes of May 17, 1991 meeting; (ii) review correspondence; and (iii) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

ASAP POLICY BOARD - VALLEY

September 9, 1991 - 8:30 a.m. – Open Meeting
Augusta County School Board Office, Fishersville, Virginia. ☐

A regular meeting of the local policy board to conduct business pertaining to (i) court referrals; (ii) financial reports; (iii) director's reports; and (iv) statistical reports.

Contact: Mrs. Rhoda G. York, Executive Director, 2 Holiday Court, Staunton, Virginia 24401, telephone (703) 886-5616 or (703) 943-4405.

BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

October 24, 1991 - 9:30 a.m. – Open Meeting
1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☐

A regularly scheduled board meeting.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005, telephone (804) 662-9111.

BOARD FOR BRANCH PILOTS

† **September 12, 1991 - 9 a.m.** – Open Meeting
The Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ☐

A regular quarterly meeting of the board to consider routine business.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 West Broad Street, Fifth Floor, Richmond, Virginia 23230-4917, telephone (804) 367-2194.

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **September 13, 1991 - 10 a.m.** – Open Meeting
Virginia Housing Development Authority, 601 Belvidere Street, First Floor Conference room, Richmond, Virginia. ☐

A meeting to (i) consider requests for interpretation of the Virginia 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. Orientation for new board members.

Contact: Jack A. Proctor, 205 North Fourth Street, Richmond, Virginia 23219, telephone (804) 371-7772.

CHESAPEAKE BAY COMMISSION

September 12, 1991 - 1:45 p.m. – Open Meeting
September 13, 1991 - 9 a.m. – Open Meeting
Cavalier Hotel, Virginia Beach, Virginia.

The agenda includes policy discussions concerning migratory fish passage, environmental education requirements for school curricula, and the shad ocean intercept fishery. Friday's session will focus on nonpoint source pollution control programs and state, federal and private evaluations of the Bay program.

Contact: Ann Pesiri Swanson, Executive Director, 60 West Street, Suite 200, Annapolis, MD 21401, telephone (301) 263-3420.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

October 10, 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 Area programs. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by October 3, 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 []

Central Area Review Committee

September 9, 1991 - 9:30 a.m. - Open Meeting
September 23, 1991 - 9:30 a.m. - Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. [] (Interpreter for deaf provided upon request)

The Review Committee will review Chesapeake Bay Preservation Area programs for the Central Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

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 []

Northern Area Review Committee

September 11, 1991 - 9 a.m. - Open Meeting
September 25, 1991 - 9 a.m. - Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. [] (Interpreter for deaf provided upon request)

The Review Committee will review Chesapeake Bay Preservation Area programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are

welcome.

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 []

Southern Area Review Committee

September 18, 1991 - 9:30 a.m. - Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. [] (Interpreter for deaf provided upon request)

The Review Committee will review Chesapeake Bay Preservation Area programs for the Southern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

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 12, 1991 - 9 a.m. - Open Meeting
Koger Executive Center, Blair Building, Conference Rooms A & B, 8007 Discovery Drive, Richmond, Virginia. [] (Interpreter for deaf provided upon request)

A meeting to discuss issues, concerns, and programs that impact child care centers, camps, school age programs, and preschool/nursery schools. Public comment period will be at 1 p.m.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

* * * * *

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 18, 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

Calendar of Events

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 Care 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 Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

* * * * *

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 Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

BOARD OF COMMERCE

† **October 7, 1991 - 10 a.m. – Open Meeting**
Conference Room 1, Department of Commerce, 3600 West
Broad Street, Richmond, Virginia. ☒

A regular quarterly meeting of the board. Board likely to discuss anticipated legislation in next session of General Assembly of interest to, or with impact upon, the Department of Commerce.

Contact: Alvin D. Whitley, Board Secretary, Department of Commerce, 3600 West Broad Street, Richmond, Virginia, 23230, telephone (804) 367-8564 or SCATS 367-8519.

STATE BOARD FOR COMMUNITY COLLEGES

September 11, 1991 - Time to be Determined – Open Meeting

September 12, 1991 - 9 a.m. – Open Meeting
Board Room, 15th Floor, Monroe Building, 101 North 14th
Street, Richmond, Virginia.

A regularly scheduled meeting of the board. (Agenda available by September 3, 1991.)

Contact: Mrs. Joy Graham, 15th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia, telephone (804) 225-2126.

COMPENSATION BOARD

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.

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

Falls of the James Scenic River Advisory Board

September 20, 1991 - Noon - Open Meeting
Planning Commission Conference Room, Fifth Floor, City Hall, Richmond, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4172 or (804) 786-2121/TDD ☎

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 06, 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.

BOARD FOR COSMETOLOGY

† September 16, 1991 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Fifth Floor, Richmond, Virginia. ☎

A meeting to (i) review applications; (ii) review correspondence; (iii) conduct review and disposition of enforcement cases; (iv) conduct regulatory review; and (v) consider routine board business.

Contact: Demetra Kontos, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, Virginia, 23230-4917, telephone (804) 367-2175.

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.

DEPARTMENT OF ECONOMIC DEVELOPMENT

Small Business Advisory Board

† September 24, 1991 - 10 a.m. - Open Meeting
12th Floor Conference Room, 1021 East Cary Street, Richmond, Virginia. ☎

The board will conduct its regular meeting.

Contact: Mary Elsesser, Department of Economic Development, Office of Small Business, 1021 East Cary Street, Richmond, Virginia, 23219, telephone (804) 371-8259.

STATE BOARD OF EDUCATION

September 25, 1991 - 8 a.m. - Open Meeting
September 26, 1991 - 8 a.m. - Open Meeting

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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.

VIRGINIA EDUCATION LOAN AUTHORITY

Board of Directors

† September 11, 1991 - 10 a.m. - Open Meeting
VELA Board Room, 737 North Fifth Street, Richmond, Virginia. ☒

A general business meeting. The Board of Directors will receive the auditor's report.

Contact: Lyn Hammond, Executive Assistant, 411 East Franklin Street, Suite 300, Richmond, VA 23219, telephone (804) 775-4620, SCATS (804) 786-2035, toll-free 1-800-792-LOAN or (804) 371-8728/TDD ☎

STATE BOARD OF ELECTIONS

† September 18, 1991 - 10 a.m. - Open Meeting
Ninth Street Office Building, 6th Floor Conference Room, Room 625, Richmond, Virginia.

A meeting for the canvassing of any September 11 Primary Elections.

Contact: Lisa M. Strickler, Executive Secretary Senior, 200 North 9th Street, Room 101, Richmond, VA 23219, telephone (804) 786-6551 or toll-free 1-800-552-9745.

LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF ALEXANDRIA

† September 11, 1991 - 6 p.m. - Open Meeting
Alexandria Police Department, 2003 Mill Road, Alexandria, Virginia. ☒

Open meeting with committee members and facility emergency coordinators to conduct business in accordance with SARA Title III, Emergency Planning and Community Right-to-Know Act of 1986.

Contact: Charlie W. McRorie, Emergency Preparedness

Coordinator, 900 Second Street, Alexandria, VA 22314
telephone (703) 838-3825 or SCATS (703) 838-5056.

LOCAL EMERGENCY PLANNING COMMITTEE - ARLINGTON COUNTY/CITY OF FALLS CHURCH

† September 19, 1991 - 7:30 p.m. - Open Meeting
Fire Station #1, 500 South Glebe Road, Arlington, Virginia.
☒ (Interpreter for deaf provided if requested)

A general business meeting.

Contact: Thomas M. Hawkins, Chairman, 2100 Clarendon Boulevard, Suite 400, Fire Department Administration, Arlington, VA 22201, telephone (703) 358-3365.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

October 3, 1991 - 5:30 p.m. - Open Meeting
† November 7, 1991 - 5:30 p.m. - Open Meeting
† December 5, 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 Service, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG

September 10, 1991 - 3 p.m. - Open Meeting
Montgomery County Courthouse, 3rd Floor, Board of Supervisors Room, Christiansburg, Virginia. ☒

A meeting to develop a Hazardous Materials Emergency Response Plan for Montgomery County and the Town of Blacksburg.

Contact: Steve Via, New River Valley Planning District Commission, P. O. Box, 3726, Radford, VA 24143, telephone (703) 639-9313.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF PRINCE WILLIAM, CITY OF MANASSAS, AND CITY OF MANASSAS PARK

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.

LOCAL EMERGENCY PLANNING COMMITTEE - RICHMOND

† September 26, 1991 - 6 p.m. - Open Meeting
Richmond Ambulance Headquarters, 1305 Sherwood Road, Richmond, Virginia. ☒

The Richmond Emergency Planning Committee will be discussing planning and other recent developments pertaining to the REPC Committee. Nominations for membership officers will be taken.

Contact: Thomas E. Price, Captain, Richmond Fire Bureau, 501 N. 9th Street, Room 134, Richmond, VA 22319, telephone (804) 780-6660.

LOCAL EMERGENCY PLANNING COMMITTEE - ROANOKE VALLEY

† September 18, 1991 - 9 a.m. - Open Meeting
Salem Civic Center, Room C, 1001 Roanoke Boulevard, Salem, Virginia. ☒

A meeting to (i) receive public comment; (ii) receive report from Community Coordinators; and (iii) receive report from standing committees.

Contact: Danny W. Hall, Fire Chief/Emergency Services Coordinator, 105 S. Market Street, Salem, VA 24153, telephone (703) 375-3080.

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 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 305-02-01. 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

Department of Fire Programs

September 23, 1991 - 7:30 p.m. - Public Hearing
Fire Station #7, 423 Airport Drive, Danville, Virginia.

September 25, 1991 - 7:30 p.m. - Public Hearing
Fire Station #1, 361 Effingham Street, Portsmouth, Virginia.

September 26, 1991 - 7:30 p.m. - Public Hearing
Eastern Shore Community College, Lecture Hall, Melfa, Virginia.

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The purpose of the public hearing is to discuss House Bill 2000 (1991) which directs the Department of Fire Programs and the Virginia State Police to establish regulations for inspection of fire apparatus. The public is encouraged to attend and participate.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

DEPARTMENT OF FORESTRY

Reforestation of Timberlands Board

† September 25, 1991 - 10 a.m. - Open Meeting
Union Camp Woodlands Office, 2nd Avenue and Mechanic Street, Franklin, Virginia. ☐

A semi-annual meeting of the board to review accomplishments and budget.

Contact: Phil T. Grimm, Assistant Chief, Forest Management, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555.

DEPARTMENT OF GENERAL SERVICES

Division of Forensic Science

† September 20, 1991 - 10 a.m. - Open Meeting
Conference Room B, Monroe Tower Building, 101 North 14th Street, Richmond, Virginia.

The Advisory Board will discuss issues, concerns, and programs that impact the Division of Forensic Science and its user agencies.

Contact: Paul B. Ferrara, Ph.D., Director, 101 North 14th Street, Richmond, VA 23219, telephone (804) 786-2281.

HAZARDOUS MATERIALS TRAINING COMMITTEE

September 25, 1991 - 1 p.m. - Open Meeting
Radisson Hotel, Pavilion Drive, Virginia Beach, Virginia.

The purpose of this meeting will be to discuss curriculum course development and review existing hazardous materials courses.

Contact: Mr. N. Paige Bishop, 2873 Moyer Road, Powhatan, VA 23139, telephone (804) 598-3370.

BOARD OF HEALTH PROFESSIONS

Regulatory Research committee

† September 30, 1991 - 2 p.m. - Open Meeting

Department of Health Professions, Conference Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☐
(Interpreter for deaf provided if requested)

The committee will review a draft of its annual report to the Board of Health Professions on (i) reviews of board regulations; (ii) review of need to regulate therapeutic recreation specialists; and (iii) guidelines for continuing competency requirements.

Contact: Richard Morrison, Executive Director, Department of Health Professions, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

September 24, 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.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

STATE BOARD OF HEALTH

September 17, 1991 - Noon - Open Meeting
September 18, 1991 - 9 a.m. - Open Meeting
OBICI Hospital, 1900 North Main Street, Suffolk, Virginia.
☐ (Interpreter for deaf provided upon request)

A work session is planned for Tuesday, September 17, 1991. Informal dinner to be held at Front Street Restaurant, 434 North Main Street, Suffolk, Virginia, at 7:30 p.m. Business meeting is planned for Wednesday, September 18, 1991.

Contact: Susan R. Rowland, Assistant to the Commissioner, Virginia Department of Health, P. O. Box 2448, Suite 214, Richmond, VA 23218, telephone (804) 786-3561.

BOARD FOR HEARING AID SPECIALISTS

† September 16, 1991 - 8:30 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☐

An open meeting to (i) administer examinations to eligible candidates; (ii) review enforcement cases; (iii) conduct regulatory review; (iv) sign certificates; and (v) consider other matters which may require board action.

Contact: Mr. Geralde W. Morgan, Administrator

Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **October 2, 1991 - 10 a.m.** – Open Meeting
† **November 6, 1991 - 10 a.m.** – Open Meeting
Council Conference Room, 9th Floor, Monroe Building, Richmond, Virginia. ☒

A general business meeting.

Contact: Mike Mullen, Associate Director, 101 N. 14th Street, 9th Floor Monroe Building, Richmond, Virginia 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 ☎

DEPARTMENT OF HISTORIC RESOURCES

† **September 23, 1991 - 7 p.m.** – Public Hearing
Neighborhood Center Courthouse - County Complex, Charles City, Virginia.

† **September 25, 1991 - 7 p.m.** – Public Hearing
Board of Supervisors Meeting Room, James City County Courthouse, Williamsburg, Virginia.

† **September 30, 1991 - 7 p.m.** – Public Hearing
Eastern Henrico Government Center, 3820 Nine Mile Road, Richmond, Virginia.

A public hearing on the Route 5 Corridor Study (HJR 457).

Contact: Margaret Peters, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

Route 5 Advisory Committee

† **September 16, 1991 - 7 p.m.** – Open Meeting
James City County Human Resources Center, Multi-Purpose Room, Old Towne Road, Williamsburg, Virginia. ☒ (Interpreter for deaf provided if requested)

A general meeting.

Contact: Margaret Peters, 221 Governor Street, Richmond,

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 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

† **September 17, 1991 - 9 a.m.** – Open Meeting
601 South 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; and (iv) consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the

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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 Street, Richmond, VA 23220, telephone (804) 782-1986.

COUNCIL ON INFORMATION MANAGEMENT

September 13, 1991 - 9 a.m. – Open Meeting
1100 Bank Street, Suite 901, Richmond, Virginia. ☒

A regular business meeting. The council will consider approval of Information Security Standard and Information Systems Development Policy and Standards.

Contact: Linda Hening, Administrative Assistant, Washington Building, 1100 Bank Street, Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

VIRGINIA INTERAGENCY COORDINATING COUNCIL ON EARLY INTERVENTION

September 11, 1991 - 9 a.m. – Open Meeting
Martha Washington Inn, 150 West Main Street, Abingdon, Virginia. (Interpreter for deaf provided if requested)

The Virginia Interagency Coordinating Council according to PL 101-476, Part H, early intervention program for disabled infants and toddlers and their families, is meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency to develop and implement a statewide interagency early intervention program.

Contact: Michael Fehl, Director MR Children/Youth Services, Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

DEPARTMENT OF LABOR AND INDUSTRY

January 14, 1992 - 7 p.m. – Public Hearing
Fourth Floor Conference Room, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Labor and Industry intends to adopt regulations entitled: **VR 425-01-81. Regulations Governing the Employment of Minors on Farms, in Gardens, and in Orchards.** Provision of regulations concerning child labor in agriculture.

Statutory Authority: § 40.1-6(3), 40.1-100 A 9, and 40.1-115 of the Code of Virginia.

Written comments may be submitted until October 28, 1991.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Powers-Taylor Building, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-2384.

Apprenticeship Council

† **September 19, 1991 - 7 p.m. – Open Meeting**
Hermitage Vo-Tech Center, Hermitage High School, Commons - 1st Floor, 8301 Hungry Springs Road, Richmond, Virginia. ☒

A regular meeting of the Council to discuss and act on (i) proposed revision to the Deregistration Procedure; (ii) pilot test of new evaluation instrument; (iii) Project Achieve Grant Proposal; and (v) Tech Prep Education and Apprenticeship.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Powers-Taylor Building, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-2381.

STATE LAND EVALUATION ADVISORY COUNCIL

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.

LIBRARY BOARD

September 10, 1991 - 10 a.m. – Open Meeting
Virginia State Library and Archives, 3rd Floor, Supreme Court Room, 11th Street at Capitol Square, Richmond, Virginia. ☒

A meeting to discuss administrative matters of the Virginia State Library and Archives.

Contact: Jean H. Taylor, Secretary to the State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia 23219, telephone (804) 786-2332.

LONG-TERM CARE COUNCIL

† September 13, 1991 - 9 a.m. - Open Meeting Virginia Housing Development Authority, 601 South Belvidere Street, Conference Room 3, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A general business meeting of the council.

Contact: Janet Lynch, Director, 700 East Franklin Street, 10th Floor, Richmond, VA 23219, telephone (804) 371-0552 or (804) 225-2271/TDD ☎

STATE LOTTERY BOARD

September 23, 1991 - 10 a.m. - Open Meeting State Lottery Department, Conference Room, 2201 West Broad Street, Richmond, Virginia. ☒

A regular monthly meeting of the board. Business will be conducted according to items listed on 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.

BOARD OF MEDICAL ASSISTANCE SERVICES

† September 16, 1991 - 1 p.m. - Open Meeting Board Room, Suite 1300, 600 East Broad Street, Richmond, Virginia. ☒

A meeting to discuss medical assistance services and issues pertinent to the board.

The Board's Policy Committee will meet prior to the board meeting at 10 a.m. in the board room to discuss communication and linkage with the Governor's Advisory Board on Medicare and Medicaid.

Contact: Patricia A. Sykes, Policy Analyst, Suite 1300, 600 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-7958, toll-free 1-800-552-8627 or 1-800-343-0634/TDD ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

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.

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 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.

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

Calendar of Events

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.

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.

BOARD OF MEDICINE

September 13, 1991 - 9 a.m. – Public Hearing.
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 2, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to 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.

* * * * *

- † **October 3, 1991 - 8 a.m. – Open Meeting**
 - † **October 4, 1991 - 8 a.m. – Open Meeting**
 - † **October 5, 1991 - 8 a.m. – Open Meeting**
 - † **October 6, 1991 - 8 a.m. – Open Meeting**
- Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The full board will meet on October 3 in open session to conduct general board business and discuss any other items which may come before the board. The board will also meet on Friday, Saturday, and Sunday, to review reports, interview licensees and make decisions on discipline matters.

Public comment will be received at the conclusion of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Chiropractic Examination Committee

† **September 24, 1991 - 8:30 a.m.** – Open Meeting
Department of Health Professions, Board Room 4, 1601
Rolling Hills Drive, Richmond, Virginia. ☒

The Chiropractic Examination Committee will meet in closed session to develop examination questions for the next chiropractic exam.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Credentials Committee

† **October 19, 1991 - 8:15 a.m.** – Open Meeting
Department of Health Professions, Board Room 3, 1601
Rolling Hills Drive, Richmond, Virginia. ☒

The Credentials Committee will meet to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia in open and executive session and discuss any other items which may come before the committee. Public comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Committee on Optometry

† **September 13, 1991 - 9 a.m.** – Public Hearing
Department of Health Professions, Board Room 2, 1601
Rolling Hills Drive, Richmond, Virginia. ☒

The committee will conduct a formal public hearing to receive comments on 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.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

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 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 Committee on Radiological Technology Practitioners

† **September 27, 1991 - 1 p.m.** – Open Meeting
Department of Health Professions, Board Room 2, 1601
Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review and discuss recognition of the American Registry of Clinical Radiography Technologists (ARCRT) as an examination agency by the board, and proposed amendments to the Code of Virginia regarding the initials used for designation of radiological technology practitioners. Public comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Mental Retardation Advisory Council

† **September 18, 1991 - 10 a.m.** – Open Meeting
James Madison Building, 8th Floor Conference Room, 109
Governor Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A quarterly meeting to conduct business relative to the Council's responsibility for advising the State Mental Health, Mental Retardation and Substance Abuse Services Board on issues pertaining to mental retardation. The agenda will be available September 13, 1991.

Contact: Stanley J. Butkus, Ph.D., Director of Mental Retardation Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-1746.

State Human Rights Committee

† **September 13, 1991 - 9 a.m.** – Open Meeting
Mountain Wood, 500 Old Lynchburg Road, Charlottesville,
Virginia. ☒

A regular meeting of the State Human Rights Committee to discuss business relating to human rights issues. Agenda items are listed prior to the meeting.

Contact: Elsie D. Little, ACSW, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Human Rights, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988 or (804) 371-8977/TDD ☎

Calendar of Events

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† September 25, 1991 - 10 a.m. - Open Meeting
Dickenson County Community Services Board, Clintwood,
Virginia. ☒

A regular monthly meeting. The agenda will be published on September 18. The agenda may be obtained by calling Jane Helfrich.

Tuesday: Informal Session - 6 p.m.

Wednesday: Committee Meetings - 8:45 a.m. Regular Session - 10 a.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

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

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 480-03-19. 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.

VIRGINIA MUSEUM OF FINE ARTS

Accessions Committee

† September 17, 1991 - 2 p.m. - Open Meeting
The Mellon Galleries, Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Richmond, Virginia. ☒

A meeting to consider gift offers and purchases of works of art for the permanent collection.

Board of Trustees

† September 19, 1991 - 11:30 a.m. - Open Meeting
Virginia Museum Auditorium, Boulevard and Grove Avenue, Richmond, Virginia. ☒

A meeting to (i) receive reports from Director, President, and Staff; (ii) review budgets; (iii) consider art acquisitions; and (iv) update committee assignments and meetings.

Finance Committee

† September 19, 1991 - 10:30 a.m. - Open Meeting
The Payne Room, Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Richmond, Virginia. ☒

A meeting to consider budget/review of enterprise operations.

Contact: Ms. Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Richmond, VA 23221-2466, telephone (804) 367-0553.

TASK FORCE TO STUDY NURSE MIDWIVES AND OBSTETRIC CARE

† September 16, 1991 - 10 a.m. - Open Meeting
Department of Health Professions, Conference Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested)

The Task Force will meet to continue its study of providers of obstetric care pursuant to House Joint Resolution 431.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

BOARD OF NURSING

† September 23, 1991 - 9:30 a.m. - Open Meeting
† September 24, 1991 - 9:30 a.m. - Open Meeting
† September 25, 1991 - 9:30 a.m. - Open Meeting
Department of Health Professions, Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☎
(Interpreter for deaf provided if requested)

A regular meeting to consider matters related to nursing education programs, discipline of licensees, licensure by examination and endorsement and other matters under the jurisdiction of the board. Public comment will be received during an open forum session beginning at 11 a.m. on Tuesday, September 24th.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

Education Advisory Committee

† October 15, 1991 - 10 a.m. - Open Meeting
Department of Health Professions, Conference Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☎
(Interpreter for deaf provided if requested)

A meeting to consider matters related to educational programs approved by the Board of Nursing and make recommendations to the board as needed. Public comment will be received at 1 p.m.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

BOARD OF PHARMACY

† September 25, 1991 - 8 a.m. - Open Meeting
† September 26, 1991 - 9 a.m. - Open Meeting
Courtyard by Marriott, 6400 West Broad Street, Conference Room A, Richmond, Virginia.

A routine board meeting and formal hearing to possibly consider proceeding with regulatory changes. Public comments will be accepted at the beginning of the meeting or at any appropriate occasion during the meeting.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9911.

BOARD OF PROFESSIONAL COUNSELORS

† October 10, 1991 - 9 a.m. - Open Meeting
† October 11, 1991 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☎

A meeting to (i) plan for 1992; (ii) conduct general business to include responding to correspondence and receiving committee reports; and (iii) conduct regulatory review.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9912.

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

† October 9, 1991 - Noon - Open Meeting
† October 10, 1991 - 9:30 a.m. - Open Meeting
† October 11, 1991 - 9 a.m. - Open Meeting
Central Virginia Educational Telecommunications Corporation (WCVE), 23 Sesame Street, Richmond, Virginia. ☎

A quarterly board meeting to update status and planning for national, state and local issues involving public telecommunications.

Contact: Mary Beth Joachim, Administrative Assistant to the Virginia Public Telecommunications Board, 110 South 7th Street, 1st Floor, Richmond, VA 23219, telephone (804) 344-5522.

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.

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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.

Calendar of Events

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

† **September 24, 1991 - 10 a.m.** – Open Meeting
Norfolk International Airport, Norfolk Port and Industrial Authority, Conference Room B, Norfolk, Virginia.

The board will meet to conduct a formal hearing: File numbers 86-00795 and 86-01498, Real Estate Board v. Lenesi, Donald t/a Military Services, Realty, Inc.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8524.

BOARD OF REHABILITATIVE SERVICES

† **September 26, 1991 - 9:30 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will receive department reports, consider regulatory matters and conduct the regular business of the board.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019 TDD and Voice or (804) 367-0280/TDD ☎

Finance Committee

† **September 26, 1991 - 8:30 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will receive monthly financial reports and budgetary projections.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019 TDD and Voice or (804) 367-0280/TDD ☎

Legislation and Evaluation Committee

† **September 26, 1991 - 8:30 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Legislative update.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019 TDD and Voice or (804) 367-0280/TDD ☎

Program Committee

† **September 26, 1991 - 8:30 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

1991-92 calendar and planning for 1991-92.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019 TDD and Voice or (804) 367-0280/TDD ☎

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

† **September 20, 1991 - 8:30 a.m.** – Open Meeting
Office of the Secretary of Health and Human Resources, Ninth Street Office Building, 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, Richmond, VA 23229-8699, telephone (804) 662-7124.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

† **November 8, 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 Social Services intends to adopt regulations entitled: **VR 615-01-37. Aid to Dependent Children (ADC) Program - Elimination of Monthly Reporting.** The regulation eliminates the monthly reporting requirement as a condition of eligibility. The proposed regulation is allowed under authority of the Omnibus Budget Reconciliation Act (OBRA) of 1990 - P.L. 101-508.

STATEMENT

Subject: Currently, under the authority of an emergency regulation, monthly reporting of income and circumstances is not a requirement of the Aid to Dependent Children (ADC) Program. Prior to May 1, 1991, nine categories of recipients were required to report income and

circumstances monthly in order to receive ADC. Effective May 1, 1991, monthly reporting was eliminated in an effort to reduce and simplify local eligibility workers' workloads.

Substance: This regulation will permanently eliminate the monthly reporting requirement.

Issues: The issue to be addressed in this regulation is to remove the monthly reporting requirement for the receipt of assistance under the Aid to Dependent Children (ADC) program. This is an option granted to states by the federal government.

Basis: Section 63.1-25 of the Code of Virginia and the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508.

Purpose: The purpose of this regulation is to permanently eliminate monthly reporting as a requirement to receive financial assistance through the ADC program.

Effective Date: May 1, 1992. (Tentative)

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

Written comments may be submitted until November 8, 1991, to Mr. Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

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.

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.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

† **October 7, 1991 - 11 a.m. – Open Meeting**
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☐

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8595.

GOVERNOR'S TASK FORCE ON SUBSTANCE ABUSE AND SEXUAL ASSAULT ON COLLEGE CAMPUSES

† **October 24, 1991 - 9:30 a.m. – Public Hearing**
George Mason University, Student Union II Ballroom,
Virginia. ☐

Public hearing.

Contact: Kris Ragan, Staff Assistant, P.O. Box 1422, Richmond, VA 23211, telephone (804) 786-6316.

VIRGINIA'S TRANSITION TASK FORCE

September 19, 1991 - 10 a.m. – Open Meeting
Virginia Department of Rehabilitative Services, 4901
Fitzhugh Avenue, Richmond, Virginia. ☐ (Interpreter for
deaf provided upon request)

Calendar of Events

Virginia's Transition Task Force, comprised of representatives of 12 state agencies and the community, will meet to discuss and develop strategies to coordinate and implement transition services for youth with disabilities across the Commonwealth of Virginia. The general business meeting begins at 10 a.m. A period for public comment, oral or written, is provided from 11:30 a.m. until 12:30 p.m.

Contact: Dr. Sharon deFur, Associate Specialist/Transition, P. O. Box 6Q, Monroe Building, 23rd Floor, Richmond, VA 23219, telephone (804) 225-3242 or 1-800-422-1098/TDD ☎

COMMONWEALTH TRANSPORTATION BOARD

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.

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

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 ☎

BOARD OF VETERINARY MEDICINE

† **October 2, 1991 - 8 a.m. – Open Meeting**
1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to conduct general board business and formal hearings.

† **October 3, 1991 - 9:30 a.m. – Open Meeting**
7700 Midlothian Turnpike, State Police Academy, Class 335, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

State board examination for veterinarians and veterinary technicians.

Contact: Terri H. Behr, Executive Secretary, 1601 Rolling Hills Drive, Richmond, VA, telephone (804) 662-9915.

COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

September 11, 1991 - 1 p.m. – Open Meeting
September 12, 1991 - 9 a.m. – Open Meeting
Omni-Charlottesville, Charlottesville, Virginia.

A regularly scheduled meeting.

Contact: William T. McCollum, Executive Director, Commission on VASAP, telephone (804) 786-5895.

VIRGINIA RACING COMMISSION

† **September 25, 1991 - 9:30 a.m. – Open Meeting**
VSRS Building, 1204 East Main Street, Richmond, Virginia. ☒

A regular commission meeting including consideration of the application of the Westmoreland Davis Foundation for a limited license at Morven Park on October 12, 1991.

Contact: William B. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

VIRGINIA RESOURCES AUTHORITY

† **September 10, 1991 - 9 a.m. – Open Meeting**
State Water Control Board, 4900 Cox Road, Second Floor Board Room, Glen Allen, Virginia.

The board will meet to (i) approve minutes of the meeting of July 9, 1991; (ii) review the authority.

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, Virginia 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

† **October 8, 1991 - 9 a.m. - Open Meeting**
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 September 10, 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, Virginia 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

November 12, 1991 - 9 a.m. - Open Meeting
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 October 8, 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, Virginia 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

October 19, 1991 - 11 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee meets quarterly to advise the Virginia Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of

the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary, 397 Azalea Avenue, Richmond, Virginia 23227, telephone (804) 371-2155 or (804) 371-3140/TDD ☎

VIRGINIA VOLUNTARY FORMULARY BOARD

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.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

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 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**

Calendar of Events

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 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.

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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: **VI 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.

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 Waterwork

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.

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. Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

LEGISLATIVE

COMMISSION STUDYING THE NEED FOR AUTONOMOUS SCHOOL OR COLLEGE STATUS FOR THE FORESTRY AND WILDLIFE PROGRAM AT VPI&SU

† **September 12, 1991 - 9:30 a.m.** – Public Hearing
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

The commission will meet to receive proposals and public comment. (HJR 447)

Contact: Mark Pratt, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

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.

JOINT SUBCOMMITTEE STUDYING COMPARATIVE PRICE ADVERTISING

September 19, 1991 - 10 a.m. – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

The joint subcommittee will meet for the purpose of developing legislation. (HJR 337)

October 16, 1991 - 10 a.m. – Public Hearing
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

Joint subcommittee will receive public comments regarding proposed legislation. (HJR 337)

Contact: Mary Geisen, Research Associate, 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.

Calendar of Events

JOINT SUBCOMMITTEE ASSESSING THE LONG-RANGE FINANCIAL STATUS OF THE GAME PROTECTION FUND

† September 10, 1991 - 9:15 a.m. - Public Hearing
Christopher Newport College, Campus Center, Room 150,
50 Shoe Lane, Newport News, Virginia.

The subcommittee will receive public comments regarding (i) how best to encourage young individuals to participate in hunting; (ii) whether hunting should be permitted on Sundays; (iii) whether a reserve fund for the Department of Game and Inland Fisheries should be established and, if so, at what level it should be maintained; (iv) whether a permit or registration should be required for nonpowered boats; and (v) how to improve the Damage Stamp Program in order to achieve the General Assembly's intent in § 29.1-352. (HJR 293)

Contact: John Heard, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

VIRGINIA HOUSING STUDY COMMISSION

† September 17, 1991 - 2 p.m. - Public Hearing
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

† September 25, 1991 - 10 a.m. - Public Hearing
CIT Auditorium, Dulles Access Road and Route 29,
Herndon, Virginia.

† October 1, 1991 - 1 p.m. - Public Hearing
Knisley Learning Center, Virginia Western Community College, Roanoke, Virginia.

† November 15, 1991 - 9 a.m. - Open Meeting
Richmond Radisson Hotel, Richmond, Virginia.

The commission will meet to discuss housing issues in Virginia and SJR 204.

Contact: Nancy M. Ambler, Director, 205 North 4th Street, Richmond, VA 23219, telephone (804) 225-3797. Persons wishing to speak should contact Nancy Blanchard, Department of Housing and Community Development, 205 North 4th Street, Richmond, VA 23219, telephone (804) 786-7891.

COMMISSION STUDYING THE MEASURES NECESSARY TO ASSURE VIRGINIA'S ECONOMIC RECOVERY

September 16, 1991 - 2:30 p.m. - Open Meeting
Christopher Newport College, Room 150, Campus Center,
Newport News, Virginia.

The main focus of the meeting will be workforce

skills and export issues. (HJR 433)

October 2, 1991 - 9 a.m. - Open Meeting
Martha Washington Inn, Ballroom, Abingdon, Virginia.

The main focus of the meeting will be government as catalyst and regulatory climate issues. (HJR 433)

October 30, 1991 - 10 a.m. - Public Hearing
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

Issues concerning innovation will be discussed in addition to public hearing on the commission's report. (HJR 433)

Contact: John MacConnell, 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

† September 17, 1991 - 10 a.m. - Open Meeting
State Capitol Building, House Room 4, Richmond, Virginia.

A regular meeting. (HJR 386)

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

YOUTH SERVICES COMMISSION

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

September 9
ASAP Policy Board - Valley
Air Pollution, State Advisory Board on
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
Land Evaluation Advisory Council, State

Calendar of Events

September 10

Emergency Planning Committee, Local - County of Montgomery/Town of Blacksburg
Library Board
† Virginia Resources Authority

September 11

Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Community Colleges, State Board for
Corrections, Board of
† Education Loan Authority, Virginia
- Board of Directors
† Emergency Planning Committee, Local - City of Alexandria
Emergency Response Council, Virginia
Historic Preservation Foundation, Virginia
Interagency Coordinating Council on Early Intervention, Virginia
Virginia Alcohol Safety Action Program, Commission on the

September 12

Agriculture and Consumer Services, Department of
- Pesticide Control Board
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
† Branch Pilots, Board for
Chesapeake Bay Commission
† Child Day-Care Council
Community Colleges, State Board for
Corrections, Board of
- Liaison Committee
Virginia Alcohol Safety Action Program, Commission on the
Waste Management, Department of

September 13

Agriculture and Consumer Services, Department of
- Pesticide Control Board
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board of Land Surveyors
† Building Code Technical Review Board, State
Chesapeake Bay Commission
Information Management, Council on
† Long-Term Care Council
Medicine, Board of
- Advisory Committee on Optometry
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- State Human Rights Committee
Youth Services Commission

September 16

Alcoholic Beverage Control Board
† Cosmetology, Board for
Emergency Planning Committee, Local - County of Prince William, City of Manassas, and City of Manassas Park
† Hearing Aid Specialists, Board for

† Historic Resources, Department of
- Route 5 Advisory Committee
Measures Necessary to Assure Virginia's Economic Recovery, Commission Studying the
† Medical Assistance Services, Board of
† Nurse Midwives and Obstetric Care, Task Force to Study

September 17

Health, State Board of
† Housing Development Authority, Virginia
† Museum of Fine Arts, Virginia
- Accessions Committee
Real Estate Appraiser Board
† School Dropouts and Ways to Promote the Development of Self-Esteem in Youth and Adults, Joint Subcommittee Studying

September 18

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
Conservation and Development of Public Beaches, Board on
Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
† Elections, State Board of
† Emergency Planning Committee, Local - Roanoke Valley
Health, State Board of
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- Advisory Council
Transportation Board, Commonwealth

September 19

† Alcohol Safety Action Program - Rockingham/Harrisonburg
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
Comparative Price Advertising, Joint Subcommittee Studying
† Emergency Planning Committee, Local - Arlington County/City of Falls Church
† Labor and Industry, Department of
- Apprenticeship Council
† Museum of Fine Arts, Virginia
- Board of Trustees
† Museum of Fine Arts, Virginia
- Finance Committee
Oil and Gas Drilling Under the Chesapeake Bay, Joint Subcommittee Studying the Environmental Impact of Transition Task Force, Virginia's
Transportation Board, Commonwealth
Voluntary Formulary Board, Virginia

September 20

Conservation and Recreations, Department of
- Falls of the James Scenic River Advisory Board
† General Services, Department of
- Division of Forensic Science
† Residential Facilities For Children, Interdepartmental

Calendar of Events

- Regulation of
- Coordinating Committee
Social Work, Board of
- September 21**
Social Work, Board of
- September 23**
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
Lottery Board, State
† Nursing, Board of
- September 24**
† Economic Development, Department of
- Small Business Advisory Board
Health Services Cost Review Council, Virginia
† Medicine, Board of
- Chiropractic Examination Committee
† Nursing, Board of
† Real Estate Board
- September 25**
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Education, Board of
† Forestry, Department of
- Reforestation of Timberlands Board
Hazardous Materials Training Committee
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State
† Nursing, Board of
† Pharmacy, Board of
† Virginia Racing Commission
- September 26**
Aging, Department for the
- Long-Term Care Ombudsman Program Advisory
Council
Compensation Board
Education, Board of
† Emergency Planning Committee, Local - Richmond
† Pharmacy, Board of
† Rehabilitative Services, Board of
- Finance Committee
- Legislation and Evaluation Committee
- Program Committee
Transportation Safety Board
- September 27**
† Medicine, Board of
- Advisory Committee on Radiological Technology
- September 30**
Alcoholic Beverage Control Board
† Health Professions, Board of
- Regulatory Research Committee
- October 1**
† Air Pollution Control Board, State
- October 2**
† Higher Education for Virginia, State Council of
Measures Necessary to Assure Virginia's Economic
Recovery, Commission Studying the
† Veterinary Medicine, Board of
- October 3**
Community Corrections Resources Board, Middle
Virginia Board of Directors and the Middle Virginia
Emergency Planning Committee, Local - Chesterfield
County
† Medicine, Board of
† Veterinary Medicine, Board of
- October 4**
† Medicine, Board of
- October 5**
† Medicine, Board of
- October 6**
† Medicine, Board of
- October 7**
† Commerce, Board of
† Soil Scientists, Board for Professional
- October 8**
† Virginia Resources Authority
- October 9**
Alcoholic Beverage Control Board
† Public Communications Board, Virginia
- October 10**
Chesapeake Bay Local Assistance Board
† Professional Counselors, Board of
† Public Communications Board, Virginia
- October 11**
† Professional Counselors, Board of
† Public Communications Board, Virginia
- October 15**
† Nursing, Board of
- Education Advisory Committee
- October 19**
† Medicine, Board of
- Credentials Committee
Visually Handicapped, Department for the
- Advisory Committee on Services
- October 24**
Audiology and Speech Pathology, Board of
- October 28**
Alcoholic Beverage Control Board
- October 30**
Education, Board of

October 31
Education, Board of

November 6
† Higher Education for Virginia, State Council of

November 7
† Emergency Planning Committee, Local - Chesterfield County

November 12
† Virginia Resources Authority

November 15
† Virginia Housing Study Commission

December 5
† Emergency Planning Committee, Local - Chesterfield County

PUBLIC HEARINGS

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
† Long-Range Financial Status of the Game Protection Funds, Joint Subcommittee Assessing the Housing and Community Development, Department of

September 11
Housing and Community Development, Department of Water Control Board, State

September 12
† Autonomous School or College Status for the Forestry and Wildlife Program at VPI and SU, Commission Studying the Need for Housing and Community Development, Department of

September 13
Housing and Community Development, Department of
† Medicine, Board of
- Advisory Committee on Optometry
Mines, Minerals and Energy, Department of

September 16
Child Day-Care Council
Social Services and Child Day-Care Council,
Department of

September 17
Child Day-Care Council
† Virginia Housing Study Commission
Social Services and Child Day-Care Council,

Department of

September 19
Child Day-Care Council
Social Services and Child Day-Care Council,
Department of

September 23
Fire Services Board, Virginia
† Historic Resources, Department of

September 25
Fire Services Board, Virginia
† Historic Resources, Department of
† Virginia Housing Study Commission

September 26
Fire Services Board, Virginia
Waterworks and Wastewater Works Operators, Board for

September 30
† Historic Resources, Department of
Water Control Board, State

October 1
† Virginia Housing Study Commission

October 2
Criminal Justice Services Board

October 16
Comparative Price Advertising, Joint Subcommittee Studying

October 24
† Substance Abuse and Sexual Assault on College Campuses, Governor's Task Force on

October 28
Measures Necessary to Assure Virginia's Economic Recovery, Commission Studying the

October 30
Alcoholic Beverage Control Board

November 21
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for

January 14, 1992
Labor and Industry, Department of

Calendar of Events
