

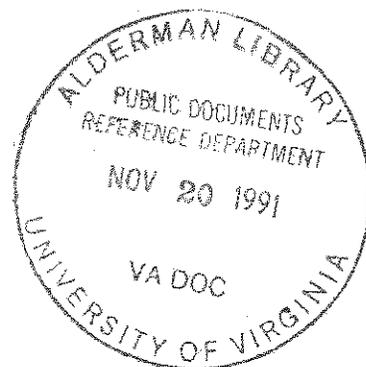
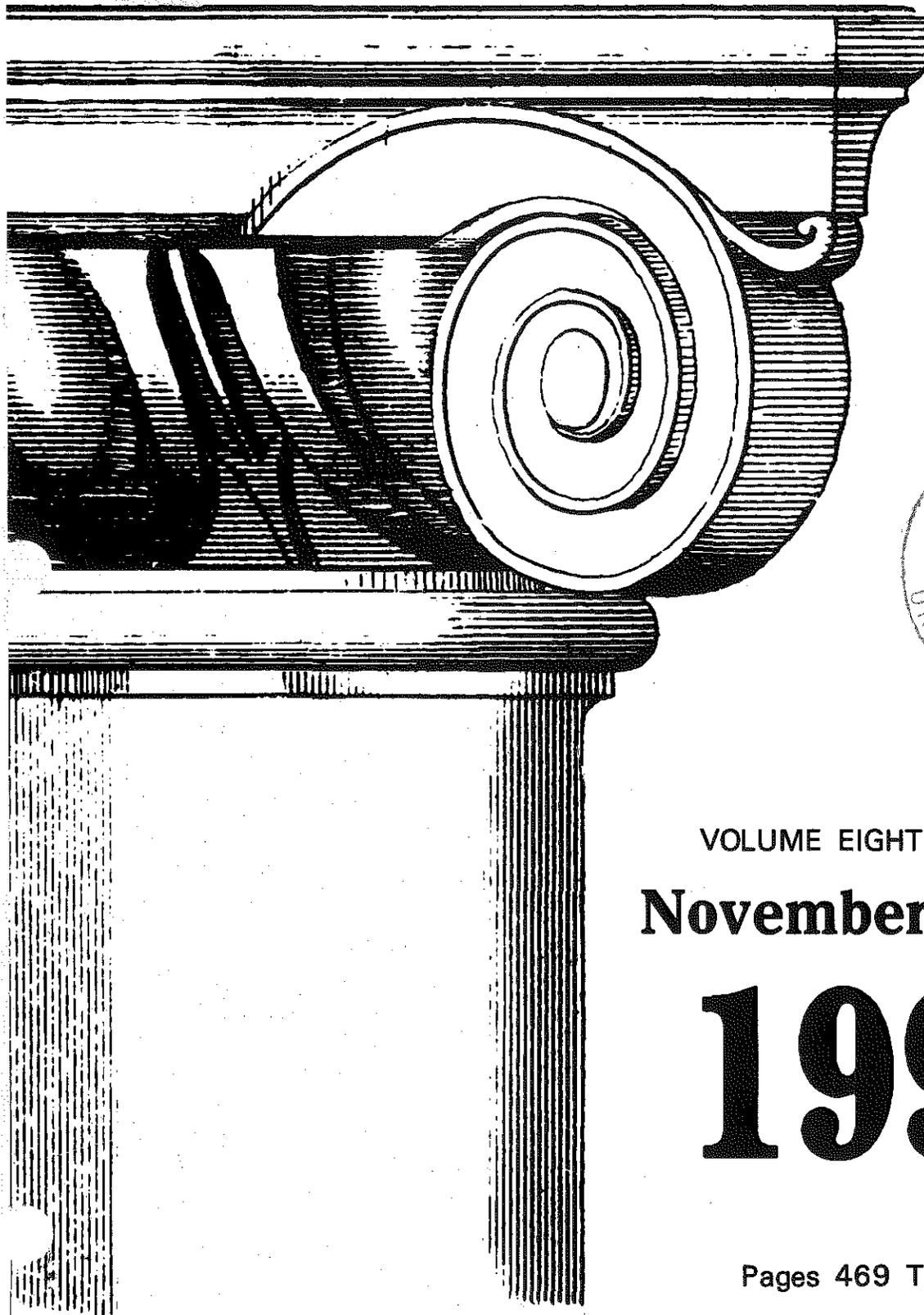
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THE VIRGINIA REGISTER

OF REGULATIONS

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November 18, 1991

1991

Pages 469 Through 678

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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Staff of the Virginia Register: Joan W. Smith, Registrar of Regulations; Ann M. Brown, Deputy Registrar of Regulations.

VIRGINIA REGISTER OF REGULATIONS

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Aug. 21	Sept. 9
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Symbol Key †
† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-04-14. Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine.** The purpose of the proposed action is to review the regulation for effectiveness and continued need. Among the matters that need to be reviewed are current penalties, reporting and filing dates, and the grounds for exemptions from the various requirements.

Statutory Authority: §§ 3.1-188.21 and 3.1-188.23 of the Code of Virginia.

Written comments may be submitted until December 8, 1991.

Contact: John R. Tate, Agriculture Biologist Supervisor, P.O. Box 1163, 1100 Bank Street, Room 703, Washington Building, Richmond, VA 23209, telephone (804) 786-3515.

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed amendment to Part VIII is to require the owner of the proposed new or expanded facility to provide such information as may be needed to enable the agency to conduct a preconstruction review in order to determine compliance with applicable new source performance standards and to assess the impact of the emissions from the facility on air quality. The amendment also provides the basis for the agency's final action (approval or disapproval) on the permit depending upon the results of the preconstruction review.

A public meeting will be held on December 10, 1991, at 10 a.m. in House Committee Room 1, State Capitol Building, Richmond, Virginia, to receive input on the development of the proposed regulation.

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

Written comments may be submitted until December 10, 1991, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240.

Contact: Nancy S. Saylor, Policy Analyst, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed amendment to Rule 4-37 is to require the owner/operator of a petroleum liquid storage and transfer facility to install and operate a vapor control and recovery system for VOC emissions, such that resultant ozone concentrations in the ambient air may be reduced to levels which are necessary for the protection of public health and welfare.

A public meeting will be held on December 11, 1991, at 10 a.m. in House Committee Room 1, State Capitol Building, Richmond, Virginia, to receive input on the development of the proposed regulation.

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

Written comments may be submitted until December 11, 1991, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240.

Contact: Ellen P. Snyder, Policy Analyst, Division of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 786-0177.

BOARD OF AVIATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Aviation intends to consider repealing existing regulations and promulgating new regulations entitled: **Regulations of the Department of Aviation.** The purpose of the proposed action is to solicit public comments and update current aviation regulations as to their effectiveness.

Notices of Intended Regulatory Action

Statutory Authority: Title 5.1-2.15 of the Code of Virginia.

Written comments may be submitted until December 22, 1991.

Contact: Keith F. McCree, AICP, Aviation Planner, Department of Aviation, 4508 S. Laburnum Avenue, Richmond, VA 23231-2422, telephone (804) 786-1365 or toll-free 1-800-292-1034.

BOARD FOR CONTRACTORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Contractors intends to consider amending regulations entitled: **VR 220-01-2. Board for Contractors Licensing Regulations.** The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, clarity and necessity.

Statutory Authority: § 54.1-1102 of the Code of Virginia.

Written comments may be submitted until December 20, 1991.

Contact: Martha LeMond, Assistant Director, 3600 West Broad Street, Richmond, Virginia 23230, telephone (804) 367-8557.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Education intends to consider promulgating regulations entitled: **Regulations of School Building Construction.** The purpose of the proposed action is to develop standards for the erection of or addition to public school buildings governing instructional, operational, health and maintenance facilities where these are not specifically addressed in the Uniform Statewide Building Code.

Statutory Authority: §§ 22.1-16 and 22.1-138 of the Code of Virginia.

Written comments may be submitted until November 18, 1991.

Contact: David L. Boddy, Environmental Technical Services Administrator, Virginia Department of Education, P.O. Box 6Q, Richmond, Virginia 23216-2060, telephone (804) 225-2035.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

public participation guidelines that the Board of Education intends to consider amending regulations entitled: **VR 270-01-0012. Standards for Accrediting Public Schools in Virginia.** The purpose of the proposed action is to provide minimum standards to give guidance and direction to assist schools in their continuing efforts to offer educational programs to meet the needs, interests, and aspirations of all students. The amendments are necessary to reflect changes in the missions of the Board of Education and the Department of Education. The board is also adopting new goals as part of the Standards of Quality.

Statutory Authority: §§ 22.1-19 and 22.1-253.13:3 (B) of the Code of Virginia.

Written comments may be submitted until December 30, 1991.

Contact: Ms. Lin Corbin-Howerton, Lead Policy Analysts, Virginia Department of Education, P.O. Box 6Q, Richmond, Virginia 23216, telephone (804) 225-2092, (804) 225-2543 or toll-free 1-800-292-3820.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† December 18, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **Regulations of the Board of Funeral Directors and Embalmers.** The purpose of the proposed regulation is to delete all references to the resident trainee program which have now been included in their entirety in the regulations entitled "Resident Trainee Regulations for Funeral Service."

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

Written comments may be submitted until December 18, 1991.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-7390 or SCATS (804) 662-9907.

* * * * *

† December 18, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **Resident Trainee Program for Funeral Services.** The purpose of the proposed regulation is to add an additional regulation which places a maximum

Notices of Intended Regulatory Action

limit on the time a trainee can remain in the trainee program.

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

Written comments may be submitted until December 18, 1991.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-7390 or SCATS (804) 662-9907.



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: **Regulations Governing Eligibility Standards and Charges for Medical Care Services**. The purpose of the proposed action is to revise current regulations to more closely conform to eligibility guidelines of other state agencies.

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

Written comments may be submitted until December 12, 1991.

Contact: Dave Burkett, Health Administrator, P.O. Box 2448, Room 237, Richmond, VA 23218, telephone (804) 786-4089.

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 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations**. The purpose of the proposed action is to amend the existing Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations so that the regulations are consistent with the amended law.

Statutory Authority: §§ 32.1-12 and 32.1-102.1 et seq. of the Code of Virginia.

Written comments may be submitted until December 5, 1991.

Contact: Paul E. Parker, Director, Division of Resources Development, Virginia Department of Health, 1500 East Main Street, Suite 105, Richmond, VA 23219, telephone (804) 786-7463.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council**. The purpose of the proposed action is to (i) amend § 6.1 of the rules and regulations to waive requirement of the submission of a certified audited financial statement when a mitigating circumstance exists; (ii) amend §§ 6.2 and 6.3 to state that neither a health care institution's annual budget submission nor any proposed modification to the annually filed schedule of charges will be accepted for review by the Council until the institution's historical filings and certified audited financial statement have been filed with the Council; (iii) amend § 6.3.1 to include that information regarding the annual survey of rates charged must be provided for each individual health care institution; and (iv) allow for the waiver of the \$10 per working day penalty for failure of a health care institution to file a certified audited financial statement if a mitigating circumstance exists.

Statutory Authority: §§ 9-158(C), 9-163 and 9-164(2) of the Code of Virginia.

Written comments may be submitted until November 21, 1991.

Contact: G. Edward Dalton, Deputy Director, 805 East Broad Street, 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Apprenticeship Council intends to consider amending regulations entitled: **VR 425-01-27. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia**. The purpose of the proposed action is to clarify and strengthen the involuntary deregistration procedure of apprenticeship programs by the Virginia Apprenticeship Council.

Statutory Authority: § 40.1-118 of the Code of Virginia.

Notices of Intended Regulatory Action

Written comments may be submitted until November 25, 1991.

Contact: R. S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

MARINE RESOURCES COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Marine Resources Commission intends to consider promulgating regulations entitled: **Guidelines for Siting and Evaluating Sand and Gravel Mining Operations in State-owned Subaqueous Beds**. The purpose of the proposed regulations is to develop guidelines to be used by the public and regulatory agencies in siting and reviewing sand and gravel mining operations where the materials will be extracted from state-owned subaqueous beds.

Statutory Authority: §§ 62.1-3, 62.1-4 and 62.1-13.4 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Robert W. Grabb, Division Chief, Virginia Marine Resources Commission, Habitat Management Division, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2252.

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: **VR 460-02-3.1400. Methods of Providing Transportation**. The purpose of the proposed action is to revise the policies of the transportation program to discontinue the prior authorization requirement and to eliminate the prior approval process conducted by local health departments.

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

Written comments may be submitted until 4:30 p.m., November 18, 1991, to Bernard Pomfrey, Transportation Program Manager, Department of Medical Assistance Services, Division of Client Services, 600 E. Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad

Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

BOARD OF MEDICINE

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 promulgating regulations entitled: **VR 465-11-01. Regulations Governing the Practice of Acupuncturists**. The purpose of the proposed action is to comply with the mandate of the 1991 General Assembly's request to develop proposed regulations for the licensure of acupuncturists in conformance with the provisions of the 1991 Act, by December 1, 1992.

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

Written comments may be submitted until November 21, 1991, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director of Licensure, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals**. The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for psychiatric hospitals in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-03, Rules and Regulations for the Licensure of Private Psychiatric Hospitals, became effective on May 1, 1978. They serve as the licensure regulations for institutions such as psychiatric hospitals, mental hospitals, psychiatric centers, psychiatric institutes, psychiatric units

Notices of Intended Regulatory Action

in general hospitals, inpatient psychiatric units in community mental health centers and other privately operated facilities serving persons requiring inpatient psychiatric care.

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

Licensure procedure; rights of patients and residents; physical facility and safety regulations; organization and management; psychiatric facility - general; psychiatric facility services; personnel practices; medical staff; admissions; diagnosis and treatment; emergency services; nursing services; social work service; psychological service; religious services; laboratory service; radiological service; pharmacy; medical records; education program; orientation and education; dietary department.

It is the intention of the department to repeal: VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

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

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

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

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for hospital based, medical detoxification facilities, inpatient substance abuse facilities, and similar inpatient facilities in order to protect the

Notices of Intended Regulatory Action

health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-05, Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities, became effective on January 1, 1980. On July 1, 1988, they were repealed with respect to their applicability to all programs except for inpatient hospital based substance treatment programs.

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

Definitions; classification of facilities, licensure procedures; patient rights; health and safety regulations; space usage; sanitary, health and special medical requirements; personnel practices; program and services; special residential facility requirements; record keeping; organization and management; methadone facilities requirements.

It is the intention of the department to repeal: VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services facilities.

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

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

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

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with

currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

Notices of Intended Regulatory Action

public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities. The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for correctional psychiatric facilities in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-07, Rules and Regulations for the Licensure of Correctional Psychiatric Facilities, became effective on April 30, 1986. They serve as the licensure regulations for psychiatric units in correctional facilities under the management and control of the Department of Corrections.

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

Definitions; legal base; licensing procedures; client rights; physical facility and safety; health and safety regulations; organization and management; psychiatric facility - general; psychiatric facility services; personnel practices; rehabilitation service (when provided); personnel practices; professional staff; admissions to psychiatric facility; diagnosis and treatment; emergency services; nursing services; social work service; psychological service; religious services; laboratory service; radiological service; pharmacy service; medical records; dietary department (food service).

It is the intention of the department to repeal: VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

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

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

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

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

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Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for supported residential programs and residential respite care/emergency services facilities in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-08, Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities, became effective on July 1, 1988. They serve as the licensure regulations for supported residential programs providing placement and residential and supportive services to clients in supervised apartments, specialized foster homes and independent living settings. They also serve as the licensure regulations for residential respite care facilities and residential emergency service facilities.

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

Definitions; licensure procedures; organization and administration; personnel; residential environment; programs and services; and disaster or emergency plans.

It is the intention of the department to repeal: VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other

Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

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

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

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

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

Notices of Intended Regulatory Action

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for outpatient facilities in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-09, Rules and Regulations for the Licensure of Outpatient Facilities, became effective on July 1, 1988. They serve as the licensure regulations for outpatient facilities which provide a variety of treatment interventions generally of less than three consecutive hours duration for mentally ill, mentally retarded, or substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting to individuals, groups and families and include but are not limited to emergency services, crisis intervention, diagnosis and evaluation, counseling, psychotherapy, behavior management, chemotherapy, ambulatory detoxification, and methadone detoxification and maintenance.

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

Definitions; licensure procedures; organization and administration; personnel; physical environment; programs and services; disaster or emergency plans; outpatient methadone facilities.

It is the intention of the department to repeal: VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

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

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements

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organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for day support programs in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-10, Rules and Regulations for the Licensure of Day Support Programs, became effective on July 1, 1988. They serve as the licensure regulations for publicly or privately operated facilities which provide a planned program of treatment or training interventions generally of more than three consecutive hours duration to mentally ill,

mentally retarded, or substance abusing persons. Day support program services may include the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. Day Support Programs are provided in a nonresidential setting and focus on the treatment of pathological conditions or on the training or strengthening of client abilities to deal with everyday life. The term "day support program" does not include entities whose primary function is to provide extended sheltered employment or work activity programs, supported or transitional employment programs, educational programs, or recreational programs.

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

Definitions; licensure procedures; organization and administration; personnel; physical environment; programs and services; disaster or emergency plans; and methadone treatment facilities.

It is the intention of the department to repeal: VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

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

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

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing

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residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for residential facilities in order to protect the health and safety of

clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-11, Rules and Regulations for the Licensure of Residential Facilities, became effective on July 1, 1988. They serve as the licensure regulations for any publicly or privately owned facility or institution by whatever name or designation which provides 24-hour domiciliary or residential care or treatment for four or more mentally ill, mentally retarded, or substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility.

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

Definitions; licensure procedures; organization and administration; personnel; residential environment; programs and services; disaster or emergency plans; and residential methadone treatment facilities.

It is the intention of the department to repeal: VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

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

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

Notices of Intended Regulatory Action

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider promulgating regulations entitled: **VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.** The purpose of the proposed action is to establish the minimum licensure requirements for all facilities and program types in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

The Department has nine sets of licensure regulations in effect at this time. Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

It is the intention of the department to repeal the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

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

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VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

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

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons. I

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: VR 470-03-01. Rules and Regulations to Assure the Rights of

Patients of Psychiatric Hospitals and Other Psychiatric Facilities. The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum requirements and program structures to assure the rights of patients of private psychiatric hospitals and other psychiatric facilities.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-03-01, Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities, became effective on August 1, 1980. They serve as the human rights regulations for facilities and institutions licensed pursuant to VR 470-02-03, Rules and Regulations for the Licensure of Private Psychiatric Hospitals. They apply to such facilities as privately operated psychiatric hospitals, mental hospitals, psychiatric centers, psychiatric institutes, psychiatric units in general hospitals, inpatient psychiatric units in community mental health centers and other privately operated facilities serving persons requiring inpatient psychiatric care.

These regulations are comprised of the following issues which have impact on facilities and their clients:

Applicability; Policy; Definitions; Rights including: legal rights, prompt evaluation and treatment, treatment with dignity, not be subjected to research without written consent, consultation with private physician, hazardous treatment, irreversible surgical procedures, aversive conditioning, least restrictive conditions, send and receive sealed letter mail, access to and confidentiality of patient records, and participation in work activities; Review process; and Informing patients about their rights and remedies.

It is the intention of the department to repeal: VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities, as well as the following regulations:

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

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

Notices of Intended Regulatory Action

of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

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

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 37.1-182 of the Code of

Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

BOARD OF PROFESSIONAL COUNSELORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Professional Counselors intends to consider amending regulations entitled: **VR 560-01-02. Regulations Governing the Practice of Professional Counseling.** The purpose of the proposed action is to consider the deletion of oral examinations and invite public comment.

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

Written comments may be submitted until December 31, 1991.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9912.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **Child Support Enforcement Program.** The purpose of the proposed action is to change the basis of a default obligation from the ADC grant amount to a higher figure that will be based on poverty level.

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

Written comments may be submitted until December 20, 1991, to Penny Pellow, Policy Unit, 8007 Discovery Drive, Richmond, Virginia 23229.

Contact: Margaret J. Friedenberg, Legislative Analyst, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Notice of Intended Regulatory Action

Notices of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-30-1. Virginia Regulations Governing the Transportation of Hazardous Materials.** The purpose of the proposed action is to incorporate by reference changes that were made to Title 49, Code of Federal Regulations, from July 1, 1990, to June 30, 1991.

Statutory Authority: §§ 10.1-1402 and 10.1-1450 of the Code of Virginia.

Written comments may be submitted until December 4, 1991, to William F. Gilley, Department of Waste Management, 11th Floor, Monroe Building, Richmond, VA 23219.

Contact: C. Ronald Smith, Hazardous Waste Enforcement Chief, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, VA 23219, telephone (804) 225-4761 or toll-free 1-800-552-2075.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Fee-for-Service Reimbursement for Home Health Services.

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

VR 460-03-4.1923. Establishment of Rate Per Visit.

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

Public Hearing Date: N/A - Written comments may be submitted until January 17, 1992.

Summary:

The purpose of this proposal is to supersede the existing emergency regulation which changed the reimbursement methodology for home health services to fee-based rather than cost-reimbursed.

The section of the State Plan affected by this action is Attachment 4.19 B, Methods and Standards for Establishing Payment Rates—Other Types of Care. Home health services are provided by certified and licensed home health agencies (HHAs) on a part-time or intermittent basis to recipients in their residences. A recipient's residence excludes a hospital or nursing facility. The Department of Medical Assistance Services (DMAS) has provided reimbursement for home health services for recipients since 1969 when it became a federally mandated service. This proposed regulation is identical to the adopted emergency regulation.

Effective January 1, 1991, DMAS implemented utilization control and preauthorization procedures for home health services. These procedures were designed to prevent unnecessary use of services and to ensure that rendered care meets established written criteria and quality standards. The proposed fee-based reimbursement system ensures that efficiencies reflected in the new service utilization methodology are fully integrated with corresponding efficiencies in the reimbursement methodology.

Effective July 1, 1991, DMAS implemented an emergency regulation to reimburse HHAs at a flat rate per level of visit for each type of service rendered by HHAs (i.e., licensed nursing, physical therapy, occupational therapy, speech-language pathology services, and home health aide services.) In addition, medical equipment and supplies left in the

home and "extraordinary" transportation costs will be paid at specific rates. The payment rates must not exceed the provider's charges (charge to the general public) or the Medicaid rate whichever is lesser. The following discusses the methodology of the fee-for-service reimbursement methodology.

DMAS has established a flat rate for each level of service for those HHAs situated in one of three peer groups. These peer groups are determined by the geographic location of the HHAs operating office and are classified as: URBAN, RURAL, or NORTHERN VIRGINIA. The use of the Health Care Financing Administration (HCFA) designation of urban metropolitan statistical areas (MSAs) is incorporated in determining the appropriate peer group for these classifications.

A separate peer grouping is established within each peer group to distinguish between freestanding and hospital-based HHAs. This accounts for the higher costs of hospital-based agencies resulting from Medicare cost allocation requirements. The Department of Health's (DOH) agencies are established in a separate peer group due to their unique cost characteristics (only one consolidated cost report is filed for all DOH agencies). Rates are calculated as follows:

- a. Each HHA is placed in its appropriate peer group.
- b. HHAs' Medicaid cost per visit (exclusive of medical supplies costs) is obtained from the 1989 cost-settled Medicaid cost reports. Costs are inflated to a common point in time (June 30, 1991) by using the percent of change in the moving average factor from the Data Resources, Inc. (DRI) National Tables, Market Basket Index of Operating Costs for Home Health Agencies.
- c. HHAs per visit costs weighted by the number of Medicaid visits per discipline are ranked and a median determined for each peer group.
- d. The fee schedule shall be adjusted annually on or about January 1, based on the DRI-National HHA forecast factor for the change in the moving average.

Billable durable medical equipment (DME) and supplies, defined as equipment and supplies remaining in the home beyond the time of the visit, will be reimbursed separately. To bill for DME, the agency

must also be enrolled as a DME vendor.

Extraordinary transportation costs to and from the recipient's home may be recovered by the home health agency if the recipient resides outside of a 15-mile radius of the home health agency's operating office. Payment will be set at a rate per mile as established by the General Services Administration in the Federal Travel Regulations, which are published in the Federal Register, times the excess mileage over the 15-mile radius. If a visit is within the 15-mile radius, the transportation cost is included in the visit rate; therefore, no additional reimbursement for transportation will be made. In order for a home health agency to receive reimbursement for transportation, the recipient must be receiving Medicaid home health services.

Home health agencies were required to file a "Final Medicaid Cost Report" to allow DMAS to cost-settle providers' methodology through June 30, 1991. Effective July 1, 1991, HHAs will be paid at rates established as outlined above.

VR 460-02-4-1920. Methods and Standards for Establishing Payment Rates - Other Types of Care.

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

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

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

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

d. Payments for services listed below shall be on the basis of reasonable cost following the standards and principles applicable to the Title XVIII Program. The upper limit for reimbursement shall be no higher than payments for Medicare patients on a facility by facility

basis in accordance with 42 CFR 447.321 and 42 CFR 447.325. In no instance, however, shall charges for beneficiaries of the program be in excess of charges for private patients receiving services from the provider. The professional component for emergency room physicians shall continue to be uncovered as a component of the payment to the facility.

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

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

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

The services that are cost reimbursed are:

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

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~~(6)~~ (5) Comprehensive outpatient rehabilitation facilities

~~(7)~~ (6) Rehabilitation hospital outpatient services.

e. Fee-for-service providers.

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

(a) Physicians' services (Supplement 1 has obstetric/pediatric fees.)

(b) Dentists' services

(c) Mental health services including:

Community mental health services

Services of a licensed clinical psychologist

Mental health services provided by a physician

(d) Podiatry

(e) Nurse-midwife services

(f) Durable medical equipment

(g) Local health services

(h) Laboratory services (Other than inpatient hospital)

(i) Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling)

(j) X-Ray services

(k) Optometry services

(l) Medical supplies and equipment

(m) *Home health services. Effective June 30, 1991, cost reimbursement for home health services is eliminated. A rate per visit by discipline shall be established as set forth in Supplement 3.*

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

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

cost) subject to the conditions, where applicable, set forth in items (6) and (7) below:

(1) The upper limit established by the Health Care Financing Administration (HCFA) for multiple source drugs pursuant to 42 CFR §§ 447.331 and 447.332, as determined by the HCFA Upper Limit List plus a dispensing fee. If the agency provides payment for any drugs on the HCFA Upper Limit List, the payment shall be subject to the aggregate upper limit payment test.

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

(3) The Estimated Acquisition Cost (EAC) which shall be based on the published Average Wholesale Price (AWP) minus a percent discount established by the methodology set out in (a) through (c) below. (Pursuant to OBRA 90 § 4401, from January 1, 1991, through December 31, 1994, no changes in reimbursement limits or dispensing fees shall be made which reduce such limits or fees for covered outpatient drugs).

(a) Percent discount shall be determined by a statewide survey of providers' acquisition cost.

(b) The survey shall reflect statistical analysis of actual provider purchase invoices.

(c) The agency will conduct surveys at intervals deemed necessary by DMAS, but no less frequently than triennially.

(4) A mark-up allowance (150%) of the Estimated Acquisition Cost (EAC) for covered nonlegend drugs and oral contraceptives.

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

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

(7) The Program recognizes the unit dose delivery system of dispensing drugs only for patients residing in nursing facilities. Reimbursements are based on the allowed payments described above plus the unit dose add on fee and an allowance for the cost of unit dose packaging established by the state agency. The maximum allowed drug cost for specific multiple 60th percentile cost level identified by the state agency or

HCFA's upper limits. All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency.

(8) Historical determination of EAC. Determination of EAC was the result of an analysis of FY'89 paid claims data of ingredient cost used to develop a matrix of cost using 0 to 10% reductions from AWP as well as discussions with pharmacy providers. As a result of this analysis, AWP minus 9.0% was determined to represent prices currently paid by providers effective October 1, 1990.

The same methodology used to determine AWP minus 9.0% was utilized to determine a dispensing fee of \$4.40 per prescription as of October 1, 1990. A periodic review of dispensing fee using Employment Cost Index - wages and salaries, professional and technical workers will be done with changes made in dispensing fee when appropriate. As of October 1, 1990, the Estimated Acquisition Cost will be AWP minus 9.0% and dispensing fee will be \$4.40.

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

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

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

TYPE OF SERVICE	PAYMENT METHODOLOGY
Taxi services	Rate set by the single state agency
Wheelchair van	Rate set by the single state agency
Nonemergency ambulance	Rate set by the single state agency
Emergency ambulance	Rate set by the single state agency
Volunteer drivers	Rate set by the single state agency
Air ambulance	Rate set by the single state agency
Mass transit	Rate charged to the public
Transportation agreements	Rate set by the single state agency
Special Emergency transportation	Rate set by the single state agency

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

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

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

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

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

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

(2) Outpatient hospitals that are not enrolled as providers with the Department of Medical Assistance Services (DMAS) which submit claims shall be paid based on the DMAS average reimbursable outpatient cost-to-charge ratio, updated annually, for enrolled outpatient hospitals less 5.0%. The 5.0% is for the cost of the additional manual processing of the claims. Outpatient hospitals that are nonenrolled shall submit claims on DMAS invoices.

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

(4) All nonenrolled noninstitutional providers shall be reviewed every two years for the number of Medicaid recipients they have served. Those providers who have had no claims submitted in the past twelve months shall be declared inactive.

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

o. Refund of overpayments.

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

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

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

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

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

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

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

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

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

Interest charges on the unpaid balance of any

overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

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

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

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

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

(c) If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost report indicating that an overpayment has occurred, the provider shall request an extended repayment schedule at the time of filing, or (ii) within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

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

A provider shall have no more than one extended repayment schedule in place at one time. If an

audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

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

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

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

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

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

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

VR 460-03-4.1923. Establishment of Rate Per Visit.

§ 1. *Effective for dates of services on and after July 1, 1991, the Department of Medical Assistance Services (DMAS) shall reimburse home health agencies (HHAs) at a flat rate per visit for each type of service rendered by HHAs (i.e., nursing, physical therapy, occupational therapy, speech-language pathology services, and home health aide services.) In addition, supplies left in the home and extraordinary transportation costs will be paid at specific rates.*

§ 2. *DMAS shall establish a flat rate for each level of service for HHAs located in three peer groups. These peer groups shall be determined by the geographic location of the HHA's operating office and shall be classified as: URBAN, RURAL, or NORTHERN VIRGINIA. The use of the Health Care Financing Administration (HCFA) designation of urban metropolitan statistical areas (MSAs) shall be incorporated in determining the appropriate peer group for these classifications.*

§ 3. *A separate grouping shall be established within each of the three peer groups to distinguish between freestanding and hospital-based HHAs. This shall account for the higher costs of hospital-based agencies resulting from Medicare cost allocation requirements. The Department of Health's agencies shall be established in another peer group due to their unique cost characteristics (only one consolidated cost report is filed for all Department of Health agencies). Rates shall be calculated as follows:*

1. *Each home health agency shall be placed in its appropriate peer group.*

2. *Home health agencies' Medicaid cost per visit (exclusive of medical supplies costs) shall be obtained from the 1989 cost-settled Medicaid Cost Reports. Costs shall be inflated to a common point in time (June 30, 1991) by using the percent of change in the moving average factor of the Data Resources, Inc. (DRI), National Forecast Tables for the Home Health Agency Market Basket.*

3. *To determine the flat rate per visit effective July 1, 1991, the following methodology shall be utilized.*

a. *Each HHA's per visit rate shall be normalized for those peer groups that have different wage indexes as determined by Medicare for the MSAs in Virginia.*

b. *The normalized HHA peer group rates and visits shall be adjusted to remove any HHA per visit rates that are outside of plus or minus one standard deviation from the peer group mean to eliminate any data that might distort the median rate per visit determination.*

c. *The peer group HHA's per visit rates shall be*

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ranked and weighted by the number of Medicaid visits per discipline to determine a median rate per visit for each peer group at July 1, 1991.

d. The HHA's rate effective July 1, 1991, shall be the lower of the peer group median or the Medicare upper limit per visit for each discipline.

e. Separate rates shall be provided for the initial assessment, follow-up, and comprehensive visits for skilled nursing and for the initial assessment and follow-up visits for physical therapy, occupational therapy, and speech therapy. The comprehensive rate shall be 200% of the follow-up rate, and the initial assessment rates shall be \$15 higher than the follow-up rates. The lower of the peer group median or Medicare upper limits shall be adjusted as appropriate to assure budget neutrality when the higher rates for the comprehensive and initial assessment visits are calculated.

4. The fee schedule shall be adjusted annually on or about January 1, based on the percent of change in the moving average of Data Resources, Inc., National Forecast Tables for the Home Health Agency Market Basket determined in the third quarter of the previous calendar year. The method to calculate the annual update shall be:

a. The HHA's peer group rate effective July 1, 1991, shall become the final peer group rate for the first partial year ending December 31, 1991, and shall be the interim peer group rate for calculating the update January 1, 1992. The interim peer group rate at January 1, 1992, shall be updated for 100% of historical inflation from July 1, 1991, through December 31, 1991, and 50% of the forecasted inflation to the end of December 31, 1992, to establish the final peer group rate.

b. All subsequent year peer group rates shall be calculated utilizing this same method with the previous final peer group rate established on January 1 becoming the interim peer group rate at December 31 each year. The interim peer group rate shall be updated for 100% of historical inflation for the previous twelve months, January 1 through December 31, and 50% of the forecasted inflation for the subsequent 12 months, January 1 through December 31.

c. The annual update shall be compared to the Medicare upper limit per visit in effect on each January 1, and the HHA's shall receive the lower of the annual update or the Medicare upper limit per visit as the peer group rate.

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Title of Regulation: State Plan for Medical Assistance Relating to Reduction of Threshold Days for Hospital

Utilization Review and Second Surgical Opinion Program.

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

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

Public Hearing Date: N/A – Written comments may be submitted until January 17, 1992.

(See Calendar of Events section for additional information)

Summary:

The purpose of this proposal is to promulgate permanent regulations to supersede the current emergency regulations providing for the same policies.

The section of the State Plan for Medical Assistance affected by this regulatory action is the Amount, Duration, and Scope of Services narrative (Attachment 3.1 A & B Supplement 1) for inpatient hospital services, outpatient hospital, and physician services.

Reduction of Threshold Days for Hospital Utilization Review (UR).

DMAS adopted its current limits on inpatient hospital lengths of stay in 1982. For all admissions of patients 21 years of age and older that exceed 14 days (up to a maximum of 21 days), the hospital must attach medical justification records to the billing invoice. (Patients younger than 21 years must, by federal law, be exempted from this sort of service limit.) Each of these claims is reviewed before payment by a registered nurse and all days determined not to be medically necessary are denied. The hospital is notified of these reduced days in its remittance vouchers.

This proposed regulation reduces the limit placed on inpatient hospital lengths of stay for which claims must be manually reviewed from 14 days to 7 days. Hospitals will now be required to attach medical justification for all claims for lengths of stay exceeding 7 days. Under the authority of this new policy, fewer inpatient hospital claims will be paid automatically by the computerized billing system.

Second Surgical Opinion Program.

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 are 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 are 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.

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 could 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.

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 ~~14~~ *eight* 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~~ *seven* 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 properly executed second surgical opinion form has been obtained from the physician and submitted with the hospital invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in the retroactive eligibility period. *Reserved.*

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

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

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

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

1. The department shall conduct periodic on-site post-payment audits of qualifying hospitals using a statistically valid sampling of paid claims for the purpose of reviewing the medical necessity of inpatient stays.
2. The hospital shall make all medical records of which medical reviews will be necessary available upon request, and shall provide an appropriate place for the department's auditors to conduct such review.
3. The qualifying hospital will immediately refund to the department in accordance with § 32.1-325.1 A and

B of the Code of Virginia the full amount of any initial overpayment identified during such audit.

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

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

§ 2. Outpatient hospital and rural health clinic services.

2a. Outpatient hospital services.

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

a. Are furnished to outpatients;

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

c. Are furnished by an institution that:

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

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

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

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

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

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

2c. Federally qualified health center (FQHC) services and other ambulatory services that are covered under the

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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 and psychologists clinical licensed by the Board of Psychology.

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 and *psychologists clinical licensed by the Board of Psychology* are covered.

I. Reimbursement will not be provided for physician

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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 and psychologists clinical licensed by the Board of Psychology. 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 and psychologists clinical licensed by the Board of Psychology are covered.

§ 7. Home health services.

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

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

C. Home health aide services provided by a home health agency. Home health aides must function under the supervision of a professional nurse.

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

1. All medical supplies, equipment, and appliances are available to patients of the home health agency.

2. Medical supplies, equipment, and appliances for all others are limited to home renal dialysis equipment and supplies, and respiratory equipment and oxygen, and ostomy supplies, as preauthorized by the local health department.

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

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

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§ 8. Private duty nursing services.

Not provided.

§ 9. Clinic services.

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

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

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

§ 10. Dental services.

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

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

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

D. The state agency may place appropriate limits on a service based on medical necessity, for utilization control,

or both. Examples of service limitations are: examinations, prophylaxis, fluoride treatment (once/six months); space maintenance appliances; bitewing x-ray - two films (once/12 months); routine amalgam and composite restorations (once/three years); dentures (once per 5 years); extractions, orthodontics, tooth guidance appliances, permanent crowns, and bridges, endodontics, patient education and sealants (once).

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

§ 11. Physical therapy and related services.

11a. Physical therapy.

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

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

11b. Occupational therapy.

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

B. Effective August 2, 1990, the Program will not provide direct reimbursement to enrolled providers for occupational therapy rendered to patients residing in long term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing home's operating cost.

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

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

B. Effective August 2, 1990, the Program will not

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provide direct reimbursement to enrolled providers for speech therapy rendered to patients residing in long term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing home's operating cost.

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

12a. Prescribed drugs.

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

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

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

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

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

12b. Dentures.

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

12c. Prosthetic devices.

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

B. Prosthetic devices (artificial arms and legs, and their necessary supportive attachments) are provided when prescribed by a physician or other licensed practitioner of the healing arts within the scope of their professional

licenses as defined by state law. This service, when provided by an authorized vendor, must be medically necessary, and preauthorized for the minimum applicable component necessary for the activities of daily living.

12d. Eyeglasses.

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

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

13a. Diagnostic services.

Not provided.

13b. Screening services.

Not provided.

13c. Preventive services.

Not provided.

13d. Rehabilitative services.

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

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

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

4. An intensive rehabilitation program provides intensive skilled rehabilitation nursing, physical therapy, occupational therapy, and, if needed, speech therapy, cognitive rehabilitation, prosthetic-orthotic services, psychology, social work, and therapeutic recreation. The nursing staff must support the other disciplines in carrying out the activities of daily living, utilizing correctly the training received in therapy and furnishing other needed nursing services. The day-to-day activities must be carried out under the

continuing direct supervision of a physician with special training or experience in the field of rehabilitation.

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

14a. Inpatient hospital services.

Provided, no limitations.

14b. Skilled nursing facility services.

Provided, no limitations.

14c. Intermediate care facility.

Provided, no limitations.

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

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

Provided, no limitations.

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

Provided, no limitations.

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

Not provided.

§ 17. Nurse-midwife services.

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

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

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

B. Categories of care.

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

of daily care:

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

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

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

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

C. Covered services.

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

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

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

4. To be covered, a certification that the individual is terminally ill must have been completed by the physician and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. The individual must elect hospice care and a plan of care must be established before services are provided. To be covered, services must be consistent with the plan of care. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no coverage will be provided.

5. All services must be performed by appropriately

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

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

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

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

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

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

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

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

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

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

D. Eligible groups.

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

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

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

Proposed Regulations

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

Provided, with limitations. See Supplement 2 for detail.

§ 20. Extended services to pregnant women.

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

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

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

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

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

21a. Transportation.

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

21b. Services of Christian Science nurses.

Not provided.

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

Provided, no limitations.

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

Provided, no limitations.

21e. Emergency hospital services.

Provided, no limitations.

21f. Personal care services in recipient's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse.

Not provided.

Emergency Services for Aliens (17.e)

No payment shall be made for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in

the United States under color of law unless such services are necessary for the treatment of an emergency medical condition of the alien.

Emergency services are defined as:

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

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

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

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

REAL ESTATE APPRAISER BOARD

NOTICE: The Real Estate Appraiser Board is withdrawing the proposed regulations entitled VR 583-01-03, Real Estate Appraiser Board Regulations, that were printed in 8:2 V.A.R. 206-226 October 21, 1991. The proposed regulations are being published below.

Title of Regulation: VR 583-01-03. Real Estate Appraiser Board Regulations.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Public Hearing Dates:

November 19, 1991 - 2 p.m.

November 20, 1991 - 2 p.m.

December 10, 1991 - 2 p.m.

(See Calendar of Events section for additional information)

Summary:

Pursuant to Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 of the Code of Virginia and in accordance with Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia, the Real Estate Appraiser Board proposes to promulgate a new regulation governing real estate appraisers to replace its existing emergency regulation which will expire March 14, 1992.

Proposed Regulations

These new regulations establish the qualifications for licensure of real estate appraisers in Virginia. The regulation outlines the educational, experience and examination requirements necessary for the licensure and renewal of licenses issued to certified general, certified residential and licensed residential real estate appraisers. Further, the regulation sets forth the standards of conduct and standards of practice that shall be maintained by licensed appraisers.

VR 583-01-03. Real Estate Appraiser Board Regulations.

PART I. GENERAL.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Accredited colleges, universities, junior and community colleges" means those accredited institutions of higher learning approved by the Virginia Council of Higher Education or listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers.

"Adult distributive or marketing education programs" means those programs offered at schools approved by the Virginia Department of Education or any other local, state, or federal government agency, board or commission to teach adult education or marketing courses.

"Appraisal Foundation" means the foundation incorporated as an Illinois Not for Profit Corporation on November 30, 1987, to establish and improve uniform appraisal standards by defining, issuing and promoting such standards.

"Appraiser Qualification Board" means the board created by the Appraisal Foundation to establish appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing and promoting such qualification criteria; to disseminate such qualification criteria to states, governmental entities and others; and to develop or assist in the development of appropriate examinations for qualified appraisers.

"Business entity" means for the purpose of these regulations any corporation, partnership, association or other organization under which appraisal services are performed.

"Certified general real estate appraiser" means an individual who meets the requirements for licensure that relate to the appraisal of all types of real estate and real property and is licensed as a certified general real estate appraiser.

"Certified residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of any residential real estate or real property of one to four residential units regardless of transaction value or complexity. Certified residential real estate appraisers may also appraise nonresidential properties with a transaction value up to \$250,000.

"Classroom hour" means 50 minutes out of each 60-minute segment. The prescribed number of classroom hours includes time devoted to tests which are considered to be part of the course.

"Experience" as used in these regulations includes but is not limited to experience gained in the performance of traditional appraisal assignments, or in the performance of the following: fee and staff appraisals, ad valorem tax appraisal, review appraisal, appraisal analysis, real estate counseling, highest and best use analysis, feasibility analysis/study, and teaching of appraisal courses.

For the purpose of these regulations experience has been divided into five major categories: (i) fee and staff appraisal, (ii) ad valorem appraisal, (iii) review appraisal, (iv) real estate consulting, and (v) teaching of real estate courses.

1. "Fee/staff appraiser experience": Fee/staff appraiser experience means experience acquired as either a sole appraiser or as a cosigner.

Sole appraiser experience is experience obtained by an individual who makes personal inspections of real estate, assembles and analyzes the relevant facts, and by the use of reason and the exercise of judgment, forms objective opinions and prepares reports as to the market value or other properly defined value of identified interests in said real estate.

Cosigner appraiser experience is experience obtained by an individual who signs an appraisal report prepared by another, thereby accepting full responsibility for the content and conclusions of the appraisal.

To qualify for fee/staff appraiser experience, an individual must have prepared written appraisal reports which meet minimum standards. For appraisal reports dated prior to July 1, 1991, these minimum standards include the following, where applicable:

- a. An adequate identification of the real estate and the interests being appraised;*
- b. The purpose of the report, date of value, and date of report;*
- c. A definition of the value being appraised;*
- d. A determination of highest and best use;*

- e. An estimate of land value;
- f. The usual valuation approaches for the property type being appraised or the reason for excluding any of these approaches;
- g. A reconciliation and conclusion as to the property's value;
- h. Disclosure of assumptions or limiting conditions, if any; and
- i. Signature of appraiser.

For appraisal reports dated subsequent to July 1, 1991, the minimum standards for written appraisal reports are those as prescribed in Standard 2 of the Uniform Standards of Professional Appraisal Practice in the 1990 edition or the edition in effect at the time of the reports' preparation.

2. "Ad valorem appraisal experience" means experience obtained by an individual who assembles and analyzes the relevant facts, and who correctly employs those recognized methods and techniques that are necessary to produce and communicate credible appraisals within the context of the real property tax laws. Ad valorem appraisal experience may be obtained either through individual property appraisals or through mass appraisals as long as applicants under this category of experience can demonstrate that they are using techniques to value real property similar to those being used by fee/staff appraisers and that they are effectively utilizing the appraisal process.

To qualify for ad valorem appraisal experience for individual property appraisals, an individual must have prepared written appraisal reports which meet minimum standards. For appraisal reports dated prior to July 1, 1991, these minimum standards include the following, where applicable:

- a. An adequate identification of the real estate and the interests being appraised;
- b. The effective date of value;
- c. A definition of the value being appraised if other than fee simple;
- d. A determination of highest and best use;
- e. An estimate of land value;
- f. The usual valuation approaches for the property type being appraised or the reason for excluding any of these approaches;
- g. A reconciliation and conclusion as to the property's value;

- h. Disclosure of assumptions or limiting conditions, if any.

For appraisal reports dated subsequent to July 1, 1991, the minimum standards for written appraisal reports are those as prescribed in the Uniform Standards of Professional Appraisal Practice in the 1990 edition or the edition in effect at the time of the reports' preparation.

To qualify for ad valorem appraisal experience for mass appraisals, an individual must have prepared mass appraisals or have documented mass appraisal files which meet minimum standards. For mass appraisals dated prior to July 1, 1991, these minimum standards include the following, where applicable:

- a. An adequate identification of the real estate and the interests being appraised;
- b. The effective date of value;
- c. A definition of the value being appraised if other than fee simple;
- d. A determination of highest and best use;
- e. An estimate of land value;
- f. Those recognized methods and techniques that are necessary to produce a credible appraisal.

For mass appraisal reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 6 of the Uniform Standards of Professional Appraisal Practice in the 1990 edition or the edition in effect at the time of the reports' preparation.

In addition to the preceding, to qualify for ad valorem appraisal experience, the applicant's experience log must be attested to by the applicant's supervisor.

3. "Reviewer experience" means experience obtained by an individual who examines the reports of appraisers to determine whether their conclusions are consistent with the data reported and other generally known information. An individual acting in the capacity of a reviewer does not necessarily make personal inspection of real estate, but does review and analyze relevant facts assembled by fee/staff appraisers, and by the use of reason and exercise of judgment, forms objective conclusions as to the validity of fee/staff appraisers' opinions. In cases where reviewer experience is the sole category of experience being claimed by an individual, at least 25% of the required 2,000 hours (500 hours) must be in field review wherein the individual has personally inspected the real estate which is the subject of the review.

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To qualify for reviewer experience, an individual must have prepared written reports recommending the acceptance, revision, or rejection of the fee/staff appraiser's opinions, which written reports must meet minimum standards. For appraisal reviews dated prior to July 1, 1991, these minimum standards include the following, where applicable:

- a. An identification of the report under review, the real estate and real property interest being appraised, the effective date of the opinion in the report under review, and the date of the review;
- b. A description of the review process undertaken;
- c. An opinion as to the adequacy and appropriateness of the report being reviewed, and the reasons for any disagreement;
- d. An opinion as to whether the analyses, opinions, and conclusions in the report under review are appropriate and reasonable, and the development of any reasons for any disagreement;
- e. Signature of reviewer.

For appraisal review reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 3 of the Uniform Standards of Professional Appraisal Practice in the 1990 edition or the edition in effect at the time of the reports' preparation.

Signing as "Review Appraiser" on an appraisal report prepared by another will not qualify an individual for experience in the reviewer category. Experience gained in this capacity will be considered under the Cosigner subcategory of Fee/staff appraiser experience.

4. "Real estate counseling experience" means experience obtained by an individual who assembles and analyzes the relevant facts and by the use of reason and the exercise of judgment, forms objective opinions concerning matters other than value estimates relating to real estate. Real estate counseling experience includes, but is not necessarily limited to, the following:

Absorption Study	Ad Valorem Tax Study
Annexation Study	Assemblage Study
Assessment Study	Condominium Conversion Study
Cost-Benefit Study	Cross Impact Study
Depreciation/Cost Study	Distressed Property Study
Economic Base Analysis	Economic Impact Study
Economic Structure Analysis	Eminent Domain Study
Feasibility Study	Highest and Best Use Study
Impact Zone Study	Investment Analysis Study
Investment Strategy Study	Land Development Study
Land Suitability Study	Land Use Study
Location Analysis Study	Market Analysis Study
Market Strategy Study	Market Turning Point Analysis
Marketability Study	Portfolio Study
Rehabilitation Study	Remodeling Study
Rental Market Study	Right of Way Study

Site Analysis Study	Utilization Study
Urban Renewal Study	Zoning Study

To qualify for real estate counseling experience, an individual must have prepared written reports which meet minimum standards. For real estate counseling reports dated prior to July 1, 1991, these minimum standards include the following, where applicable:

- a. A definition of the problem;
- b. An identification of the real estate under consideration (if any);
- c. Disclosure of the client's objective;
- d. The effective date of the consulting assignment and date of report;
- e. The information considered, and the reasoning that supports the analyses, opinions, and conclusions;
- f. Any assumptions and limiting conditions that affect the analyses, opinions, and conclusions;
- g. Signature of real estate counselor.

For real estate counseling reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 4 of the Uniform Standards of Professional Appraisal Practice in the 1990 edition or the edition in effect at the time of the reports' preparation. Real estate counseling shall not constitute more than 1,000 hours of experience for any type of appraisal license.

5. "Teaching experience" means experience obtained by an individual in the instruction of real estate appraisal or real estate related seminars/courses as well as in the authorship of real estate appraisal and analysis publications. Experience in these areas will be considered on the following basis:

- a. Seminar and course instructions: The number of approved hours is based on the published number of classroom hours stated in the official college catalog or similar publication of other educational bodies or professional organizations.
- b. Authorship: Authorship of published books, journal articles and theses may count toward an applicant's experience credit as follows:

(1) Topic must relate to real estate valuation or analysis;

(2) A book will be credited 150 hours, a journal article will be credited 20 hours, and a thesis will be credited 50 hours.

Credit may be earned only once for instruction of courses having substantially equivalent content. In cases where there is more than one instructor, credit will be pro-rated based on each instructor's participation.

"Licensed residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of any noncomplex, residential real estate or real property of one to four residential units, including federally related transactions, where the transaction value is less than \$1 million. Licensed residential real estate appraisers may also appraise noncomplex, nonresidential properties with a transaction value up to \$250,000.

"Licensee" means any individual holding a license issued by the Real Estate Appraiser Board to act as a certified general real estate appraiser, certified residential, or licensed residential real estate appraiser as defined, respectively, in § 54.1-2009 of the Code of Virginia and in these regulations.

"Local, state or federal government agency, board or commission" means an entity established by any local, federal or state government to protect or promote the health, safety and welfare of its citizens.

"Proprietary school" means a privately owned school offering appraisal or appraisal related courses approved by the board.

"Provider" means accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations.

"Real estate appraisal or real estate related organization" means any appraisal or real estate related organization formulated on a national level, where its membership extends to more than one state or territory of the United States.

"Registrant" means any corporation, partnership, association or other business entity which provides appraisal services and which is registered with the Real Estate Appraiser Board in accordance with § 54.1-2011 E of the Code of Virginia.

"Substantially equivalent" is a description for any educational course or seminar, experience, or examination taken in this or another jurisdiction which is equivalent in classroom hours, course content and subject, and degree of difficulty, respectively, to those requirements outlined in these regulations and Chapter 20.1 of Title 54.1 of the Code of Virginia for licensure and renewal.

"Transaction value" means the monetary amount of a transaction which may require the services of a certified or licensed appraiser for completion. The transaction value is not always equal to the market value of the real

property interest involved. For loans or other extensions of credit, the transaction value equals the amount of the loan or other extensions of credit. For sales, leases, purchases and investments in or exchanges of real property, the transaction value is the market value of the real property interest involved. For the pooling of loans or interests in real property for resale or purchase, the transaction value is the amount of the loan or the market value of real property calculated with respect to each such loan or interest in real property.

"Uniform Standards of Professional Appraisal Practice" means those standards promulgated by the Appraisal Standards Board of the Appraisal Foundation for use by all appraisers in the preparation of appraisal reports.

PART II. ENTRY.

§ 2.1. Requirement for registration.

A business entity seeking to provide appraisal services shall register with the board by completing an application furnished by the board describing the location, nature and operation of its practice, and the name and address of the registered agent, an associate, or a partner of the business entity. Along with a completed application form, domestic corporations shall provide a copy of the Certificate of Incorporation as issued by the State Corporation Commission, foreign (out-of-state) corporations shall provide a copy of the Certificate of Authority from the State Corporation Commission, partnerships shall provide a copy of the certified Partnership Certificate, and other business entities trading under a fictitious name shall provide a copy of the certificate filed with the clerk of the court where business is to be conducted.

§ 2.2. General qualifications for licensure.

Every applicant to the Real Estate Appraiser Board for a certified general, certified residential, or licensed residential real estate appraiser license shall meet the following qualifications:

1. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a licensed real estate appraiser in such a manner as to safeguard the interests of the public.
2. The applicant shall meet the current educational and experience requirements and submit a license application to the Department of Commerce or its agent prior to the time the applicant is approved to take the licensing examination. Applications received by the department or its agent must be complete within 12 months of the date of the receipt of the license application and fee by the Department of Commerce or its agent.
3. The applicant shall be in good standing as a real estate appraiser in every jurisdiction where licensed

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or certified; the applicant may not have had a license or certification which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

4. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

5. The applicant shall be at least 18 years old.

6. Applicants for licensure who do not meet the requirements set forth in subdivisions 3 and 4 of this section may be approved for licensure following consideration of their application by the board.

§ 2.3. Additional qualifications for licensure of licensed residential real estate appraisers.

An applicant for a license as a licensed residential real estate appraiser shall meet the following educational, experience and examination requirements in addition to those set forth in § 2.2 of these regulations:

1. The applicant shall have successfully completed 75 classroom hours of approved real estate appraisal courses from accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations.

2. The applicant shall have a minimum of two calendar years and 2,000 hours experience as an appraiser. The maximum number of appraisal credit hours which may be awarded in one calendar year is 1,000 hours. Hours may be treated as cumulative in order to achieve the necessary 2,000 hours of appraisal experience. The applicant shall execute an affidavit as a part of the application for licensure attesting to his experience in the field of real estate appraisal. This experience must be supported by adequate written reports or file memoranda which shall be made available to the board upon request.

3. Within 12 months after being approved by the board to take the licensed residential real estate appraiser examination, the applicant shall have registered for and passed a written examination provided by the board or by a testing service acting on behalf of the board.

§ 2.4. Additional qualifications for licensure for certified residential real estate appraisers.

An applicant for a license as a certified residential real estate appraiser shall meet the following educational, experience and examination requirements in addition to those set forth in § 2.2 of these regulations:

1. The applicant shall have successfully completed 105 classroom hours of approved real estate appraisal courses from accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations or other providers approved by the board. The 105 classroom hours may include the 75 classroom hours required for the licensed residential real estate appraiser.

After January 1, 1994, applicants must complete 165 classroom hours of real estate appraisal courses which shall include coverage of required subjects.

2. The applicant shall have a minimum of two calendar years and 2,000 hours experience as a real estate appraiser. The maximum number of appraisal credit hours which may be awarded in one calendar year is 1,000 hours. Hours may be treated as cumulative in order to achieve the necessary 2,000 hours of appraisal experience. The applicant shall execute an affidavit as a part of the application for licensure attesting to his experience in the field of real estate appraisal. This experience must be supported by adequate written reports or file memoranda which shall be made available to the board upon request.

3. Within 12 months after being approved by the board to take the certified residential real estate appraiser examination, the applicant shall have registered for and passed a written examination provided by the board or by a testing service acting on behalf of the board.

§ 2.5. Additional qualifications for licensure for certified general real estate appraisers.

An applicant for a license as a certified general real estate appraiser shall meet the following educational, experience, and examination requirements in addition to those set forth in § 2.2 of these regulations:

1. The applicant shall have successfully completed 165 classroom hours of approved real estate appraisal courses from accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The 165 classroom hours

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may include the 75 classroom hours required for the licensed residential real estate appraiser, or the 105 classroom hours required for the certified residential real estate appraiser.

All applicants for licensure as a certified general real estate appraiser must complete an advanced level appraisal course of at least 30 classroom hours in the appraisal of nonresidential properties.

2. The applicant shall have a minimum of two calendar years and 2,000 hours experience as a real estate appraiser. The maximum number of appraisal credit hours which may be awarded in one calendar year is 1,000 hours. Hours may be treated as cumulative in order to achieve the necessary 2,000 hours of appraisal experience. For all applicants for a certified general real estate appraiser license, at least 50% of the appraisal experience required (1,000 hours) must be in nonresidential appraisal assignments.

The applicant shall execute an affidavit as a part of the application for licensure attesting to his experience in the field of real estate appraisal. This experience must be supported by adequate written reports or file memoranda which shall be made available to the board upon request.

3. Within 12 months after being approved by the board to take the certified general real estate appraiser examination, the applicant shall have registered for and passed a written examination provided by the board or by a testing service acting on behalf of the board.

§ 2.6. Qualifications for licensure by reciprocity.

Every applicant to the Real Estate Appraiser Board for a license by reciprocity shall have met the following qualifications:

1. An individual who is currently licensed or certified as a real estate appraiser in another jurisdiction may obtain a Virginia real estate appraiser license by providing documentation that the applicant has met educational, experience and examination requirements that are substantially equivalent to those required in Virginia for the appropriate level of licensure. All reciprocal applicants shall be required to pass the Virginia appraiser law and regulation section of the licensing examination prior to licensure.

2. The applicant shall be at least 18 years of age.

3. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia real estate appraiser license law and the regulations of the Real Estate Appraiser Board.

4. The applicant shall be in good standing as a

licensed or certified real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

5. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a licensed real estate appraiser in such a manner as to safeguard the interests of the public.

6. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

7. Applicants for licensure who do not meet the requirements set forth in subdivisions 4 and 6 of this section may be approved for licensure following consideration by the board.

§ 2.7. Qualifications for temporary licensure as a certified general real estate appraiser, certified residential real estate appraiser or licensed residential real estate appraiser.

An individual who is currently licensed or certified as a real estate appraiser in another jurisdiction may obtain a temporary Virginia real estate appraiser's license as required by Section 1121 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

The appraiser's certification or license issued by another state shall be recognized as equivalent to a Virginia license provided that:

1. The appraiser's business is of a temporary nature, and is limited to one specific assignment.

2. The education, experience and general examination completed in the jurisdiction of original licensure is deemed to be substantially equivalent to those required for the appropriate level of licensure in Virginia.

3. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia real estate appraiser license law and the regulations of the Real Estate Appraiser Board.

4. The applicant shall be in good standing as a

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licensed or certified real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

5. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a real estate appraiser in such a manner as to safeguard the interest of the public.

6. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

7. Applicants for licensure who do not meet the requirements set forth in subdivisions 4 and 6 of this section may be approved for licensure following consideration by the board.

8. The applicant shall be at least 18 years of age.

Applicants for temporary licensure shall verify the above information on an application form provided by the board. A temporary license cannot be renewed.

§ 2.8. Requirement for the certification of appraisal education instructors.

Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, and § 54.1-2013 of the Code of Virginia, instructing appraisal educational offerings to satisfy the prelicensure education qualifications for licensure of real estate appraisers shall be certified by the board. Instructors employed or contracted by accredited colleges, universities, junior and community colleges, or adult distributive or marketing education programs are not required to be certified by the board.

§ 2.9. Qualifications for the certification of instructors.

Qualifications for certification:

1. Baccalaureate degree in real estate, economics, finance or business, and have satisfied the state appraisal licensing educational requirements for the level being instructed; or

2. Baccalaureate degree and a current appraisal license for the level being instructed; or

3. Seven years of discipline-free active experience acquired in the appraisal field in the past 10 years and a current appraisal license for the level being instructed.

§ 2.10. Application and registration fees.

All application fees for licenses and registrations are nonrefundable.

1. Application fees for registrations, certificates and licenses are as follows:

Registration of business entity	\$ 75
Certified General Real Estate Appraiser	\$120
Temporary Certified General Real Estate Appraiser	\$120
Certified Residential Real Estate Appraiser	\$120
Temporary Certified Residential Real Estate Appraiser	\$120
Licensed Residential Real Estate Appraiser	\$120
Temporary Licensed Residential Real Estate Appraiser	\$120
Certification of licensure	\$ 25
Instructor Certification	\$200

2. Examination fees. Examination fees are identical for all appraiser licensing examinations.

Examination fee to take the General or Residential section, and the State Laws and Regulations section

Examination fee to take the General or Residential section only

Examination fee to take the State Rules and Regulations section only

3. National Registry Fee Assessment for all permanent license applicants

To be assessed of each applicant in accordance with Section 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. If the applicant fails to qualify for licensure, then this assessment fee will be refunded.

National Registry Fee Assessment for all temporary license applicants

To be assessed of each temporary appraiser license applicant in accordance with Section 1109 of the

Financial Institutions Reform, Recovery, and Enforcement Act of 1989. If the applicant fails to qualify for licensure, then this assessment fee will be refunded.

**PART III.
RENEWAL OF
LICENSE/REGISTRATION/CERTIFICATION.**

§ 3.1. Renewal required.

Licenses issued under these regulations for certified general real estate appraisers, certified residential real estate appraisers and licensed residential real estate appraisers and registrations issued for business entities shall expire two years from the last day of the month in which they were issued, as indicated on the license or registration. Certifications issued under these regulations for instructors shall expire two years from the last day of the month in which they were issued, as indicated on the certification.

§ 3.2. Qualifications for renewal.

A. Continuing education requirements.

As a condition of renewal, and under § 54.1-2014 of the Code of Virginia, all certified general real estate appraisers, certified residential real estate appraisers, and licensed residential real estate appraisers, resident or nonresident, shall be required to complete continuing education courses satisfactorily within each licensing term.

1. Continuing education requirements for certified general real estate appraisers.

a. Certified general real estate appraisers must satisfactorily complete continuing education courses or seminars offered by accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations of not less than 20 classroom hours during each licensing term.

b. Certified general real estate appraisers may also satisfy continuing education requirements by participation other than as a student in educational processes and programs approved by the board to be substantially equivalent for continuing education purposes including, but not limited to teaching, program development, or authorship of textbooks.

c. Three of the classroom hours completed to satisfy the continuing education requirements shall be a course approved by the board on recent developments in federal, state and local real estate appraisal law and regulation.

2. Continuing education requirements for certified residential real estate appraisers.

a. Certified residential real estate appraisers must satisfactorily complete continuing education courses or seminars offered by accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations of not less than 20 classroom hours during each licensing term.

b. Certified residential real estate appraisers may also satisfy continuing education requirements by participation other than as a student in educational processes and programs approved by the board to be substantially equivalent for continuing education purposes including but not limited to teaching, program development, or authorship of textbooks.

c. Three of the classroom hours completed to satisfy the continuing education requirements shall be a course approved by the board on recent developments in federal, state and local real estate appraisal law and regulation.

3. Continuing education requirements for licensed residential real estate appraisers.

a. Licensed residential real estate appraisers must satisfactorily complete continuing education courses or seminars offered by accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organization of not less than 20 classroom hours during each licensing term.

b. Licensed residential real estate appraisers may also satisfy continuing education requirements by participation other than as a student in educational processes and programs approved by the board to be substantially equivalent for continuing education purposes including, but not limited to teaching, program development, or authorship of textbooks.

c. Licensed residential real estate appraisers must satisfactorily complete a three classroom hour continuing education course approved by the board on recent developments in federal, state and local real estate appraisal law and regulation.

B. Applicants for renewal of a license shall meet the standards for entry as set forth in subdivisions 1, 3 and 4 of § 2.2 of these regulations.

C. Applicants for the renewal of a registration shall

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meet the requirement for registration as set forth in § 2.1.

D. Applicants for the renewal of a certificate shall meet the standards for entry as set forth in § 2.9.

§ 3.3. Procedures for renewal.

A. The board will mail a renewal application form to the licensee and certificate holder at the last known home address and to the registered firm or at the last known business address. This form shall outline the procedures for renewal. Failure to receive the renewal application form shall not relieve the licensee, certificate holder or the registrant of the obligation to renew.

B. Prior to the expiration date shown on the license or registration, each licensee, certificate holder or registrant desiring to renew the license or registration shall return to the board the completed renewal application form and the appropriate renewal and registry fees as outlined in § 3.4 of these regulations.

C. The date on which the renewal application form and the appropriate fees are received by the Department of Commerce or its agent will determine whether the licensee, certificate holder or registrant is eligible for renewal. If either the renewal application form or renewal fee, including the registry fee, is received by the Department of Commerce or its agent after the expiration date, the license, certification or registration cannot be renewed and the licensee, certificate holder, or registrant shall reapply for licensure as a new applicant, meeting current education, examination and experience requirements.

§ 3.4. Fees for renewal.

A. National registry fee assessment.

In accordance with the requirements of Section 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, \$50 of the biennial renewal fee assessed for all certified general real estate appraisers, certified residential and licensed residential real estate appraisers shall be submitted to the Appraisal Subcommittee. All remaining fees for renewal are nonrefundable.

B. Renewal fees are as follows:

Certified general real estate appraiser	\$165
Certified residential real estate appraiser	\$165
Licensed residential real estate appraiser	\$165
Registered business entity	\$ 75
Certified instructor	\$200

§ 3.5. Board discretion to deny renewal.

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

PART IV. STANDARDS.

§ 4.1. Grounds for disciplinary action.

The board has the power to fine any licensee, registrant or certificate holder, and to suspend or revoke any license, registration or certification issued under the provisions of Chapter 20.1 of Title 54.1 of the Code of Virginia and the regulations of the board, in accordance with §§ 54.1-201(7), 54.1-202 and the provisions of the Administrative Process Act, Chapter 1.1:1 of Title 9 of the Code of Virginia, when any licensee, registrant or certificate holder has been found to have violated or cooperated with others in violating any provision of Chapter 20.1 of Title 54.1 of the Code of Virginia, any relevant provision of the Uniform Standards of Professional Appraisal Practice as developed by the Appraisal Standards Board of the Appraisal Foundation¹, or any regulation of the board.

§ 4.2. Standards of ethical conduct.

In obtaining a real estate appraiser license and performing a real estate appraisal, a licensee shall comply with the Ethics Provisions of the Uniform Standards of Professional Appraisal Practice and the following standards of ethical conduct:

1. All applicants for licensure shall follow all rules established by the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instruction communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the board or a testing service acting on behalf of the board with regard to conduct at the examination shall be grounds for denial of a license.

2. A licensee, certificate holder or registrant shall not obtain a license, certification or registration by false or fraudulent representation.

3. A licensee, registrant or certificate holder shall not make any misrepresentation.

§ 4.3. Standards of professional practice.

A. Maintenance of licenses.

1. Change of address.²

a. Certified general real estate appraisers, certified residential real estate appraisers and licensed residential real estate appraisers shall at all times

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keep the board informed in writing of their current home address.

b. Registered real estate appraisal business entities shall at all times keep the board informed in writing of their current business address.

c. Certified instructors as defined in §§ 2.8 and 2.9 of these regulations, shall at all times keep the board informed in writing of their current home address.

2. Change of name.³

a. Certified general real estate appraisers, certified residential real estate appraisers, licensed residential real estate appraisers and certified instructors shall promptly notify the board in writing and provide appropriate written legal verification of any change of name.

b. Registered real estate appraisal business entities shall promptly notify the board of any change of name or change of business structure in writing. In addition to written notification, corporations shall provide a copy of the Certificate of Amendment from the State Corporation Commission, partnerships shall provide a copy of a certified Partnership Certificate, and other business entities trading under a fictitious name shall provide a copy of the certificate filed with the clerk of the court where business is to be conducted.

3. Upon the the change of name or address of the registered agent, associate, or partner, or sole proprietor designated by a real estate appraisal business entity, the business entity shall notify the board in writing of the change within 30 days of such event.

4. No license, certification or registration issued by the board shall be assigned or otherwise transferred.

5. All licensees, certificate holders and registrants shall operate under the name in which the license or registration is issued.

6. All certificates of licensure, registration or certification in any form are the property of the Real Estate Appraiser Board. Upon death of a licensee, dissolution or restructure of a registered business entity, or change of a licensee's, registrant's, or certificate holder's name or address, such licenses, registrations, or certificates must be returned with proper instructions and supplemental material to the board within 30 days of such event.

7. All appraiser licenses issued by the board shall be visibly displayed.

B. Use of seal.

1. The authorized application of a licensed appraiser's seal shall indicate that the licensee has exercised complete direction and control over the appraisal. Therefore, no licensee shall affix his seal to any appraisal which has been prepared by an unlicensed person unless such work was performed under the direction and supervision of the licensee in accordance with § 54.1-2011 C of the Code of Virginia.

2. All original appraisal reports shall be issued under seal and signed by the licensed appraiser. Such signature and seal shall appear on any page containing the final estimate or conclusion of value. All temporary licensed real estate appraisers shall sign and affix their temporary license to the appraisal report for which they obtained the license to authenticate such report.

a. An appraiser may provide written reports, market analysis studies or valuations, which do not constitute appraisals, provided, that such reports, studies or evaluations shall contain a conspicuous statement that such reports, studies or valuations are not an appraisal as defined in § 54.1-2009 of the Code of Virginia.

b. Application of the seal and signature indicates acceptance of responsibility for work shown thereon.

c. The seal shall conform in detail and size to the design illustrated below:



*The number on the seal shall be the number on the license issued by the board.

C. Development of appraisal.

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In developing a real property appraisal, an appraiser shall comply with the provisions of Standard I of the Uniform Standards of Professional Appraisal Practice (USPAP).⁴

D. Appraisal report requirements.

In reporting a real property appraisal, an appraiser shall meet the requirements of Standard II of the Uniform Standards of Professional Appraisal Practice.

E. Reviewing an appraisal.

In performing a review appraisal, a licensee shall comply with the requirements of Standard III of the Uniform Standards of Professional Appraisal Practice.

F. Real estate consulting services.

In performing real estate consulting services, a licensee shall comply with the requirements of Standard IV of the Uniform Standards of Professional Appraisal Practice.

G. Mass appraisals.

In developing and reporting a mass appraisal for ad valorem tax purposes, a licensee shall comply with the requirements of Standard VI of the Uniform Standards of Professional Appraisal Practice.

H. Record keeping requirements.

1. A licensee or registrant of the Real Estate Appraiser Board shall, upon request or demand, promptly produce to the board or any of its agents any document, book, or record in a licensee's possession concerning any appraisal which the licensee performed, or for which the licensee is required to maintain records for inspection and copying by the board or its agents. These records shall be made available at the licensee's place of business during regular business hours.

2. Upon the completion of an assignment, a licensee or registrant shall return to the rightful owner, upon demand, any document or instrument which the licensee possesses.

I. Disclosure requirements.

A licensee appraising property in which he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, has any interest shall disclose, in writing, to any client such interest in the property and his status as a real estate appraiser licensed in the Commonwealth of Virginia. As used in the context of this regulation, "any interest" includes but is not limited to an ownership interest in the property to be appraised or in an adjacent property or involvement in the transaction, such as deciding whether to extend credit to be secured by such property.

J. Competency.

A licensee shall abide by the Competency Provision as stated in the Ethics Provision of the Uniform Standards of Professional Appraisal Practice.

K. Unworthiness.

1. A licensee shall act as a certified general real estate appraiser, certified residential real estate appraiser or licensed residential real estate appraiser in such a manner as to safeguard the interests of the public, and shall not engage in improper, fraudulent, or dishonest conduct.

2. A licensee may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of the United States of a misdemeanor involving moral turpitude or of any felony there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.

3. A licensee shall inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty, regardless of adjudication, of any felony or of a misdemeanor involving moral turpitude.

4. A licensee may not have had a license or certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction.

5. A licensee shall inform the board in writing within 30 days of the suspension, revocation or surrender of an appraiser license or certification in connection with a disciplinary action in any other jurisdiction, and a licensee shall inform the board in writing within 30 days of any appraiser license or certification which has been the subject of discipline in any jurisdiction.

§ 4.4. Standards of conduct for certified appraiser education instructors.

A. Instructors shall maintain a record for each student which shall include the student's name and address, the course name, the course hours and dates given, and the date the course was passed.

B. The instructor shall not solicit information from any person for the purpose of discovering past licensing examination questions or questions which may be used in future licensing examinations.

C. The instructor shall not distribute to any person copies of license examination questions, or otherwise communicate to any person license examination questions, without receiving the prior written approval of the copyright owner to distribute or communicate those questions.

D. The instructor shall not, through an agent or otherwise, advertise its services in a fraudulent, deceptive or misrepresentative manner.

E. Instructors shall not take any appraiser licensing examination for any purpose other than to obtain a license as a real estate appraiser.

PART V. EDUCATIONAL OFFERINGS.

§ 5.1. Requirement for the approval of appraisal educational offerings.

Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, § 54.1-2013 of the Code of Virginia, and the qualifications criteria set forth by the Appraisal Qualifications Board of the Appraisal Foundation, all educational offerings submitted for precensure and continuing education credit shall be approved by the board. Although educational offerings which have been approved by the Appraisal Foundation's Educational Offering Review Panel may be considered to have met the standards for approval set forth in these regulations, all educational offerings must be approved by the board.

§ 5.2. Standards for the approval of appraisal educational offerings for precensure credit.

A. Content.

1. Prior to licensure, the applicant shall have successfully completed coverage of the Uniform Standards of Professional Appraisal Practice either as a portion of a qualified course of at least 15 classroom hours, or in a single, qualified course of at least 15 classroom hours. After July 1, 1992, applicants shall have successfully completed a 15 classroom hour course in the Uniform Standards of Professional Appraisal Practice.

2. While various appraisal courses may be credited toward the classroom requirement specified for each level of licensure, all applicants for licensure as a licensed residential or a certified residential real estate appraiser must demonstrate that their course work included coverage of all the topics listed below.

Appraisal standards and ethics
Influences on real estate value
Legal considerations in appraisal
Types of value
Land economic principles

Real estate markets and analysis
Valuation process
Property description and analysis
Highest and best use analysis
Appraisal statistical concepts
Sales comparison approach
Site valuation
Cost approach
Income approach
Valuation of partial interests

3. All appraisal and appraisal-related offerings presented for precensure credit must have a final, written examination.

4. Credit toward the classroom hour requirement to satisfy the educational requirement prior to licensure shall be granted only where the length of the educational offering is at least 15 classroom hours.

B. Instruction.

With the exception of courses taught at accredited colleges, universities, junior and community colleges, or adult distributive or marketing education programs, all other precensure educational offerings given after April 1, 1992, must be taught by instructors certified by the board.

§ 5.3. Standards for the approval of appraisal educational offerings for continuing education credit.

A. Content.

1. The content of courses, seminars, workshops or conferences which may be accepted for continuing education credit includes, but is not limited to those topics listed in § 5.2 A 2 and below.

Ad valorem taxation
Arbitrations
Business courses related to the practice of real estate appraisal
Construction estimating
Ethics and Uniform Standards of Professional Appraisal Practice
Land use planning, zoning, and taxation
Property development
Real estate appraisal (valuations/evaluations)
Real estate financing and investment
Real estate law
Real estate related computer applications
Real estate securities and syndication
Real property exchange

2. Courses, seminars, workshops or conferences submitted for continuing education credit must indicate that the licensee participated in an educational program that maintained and increased his knowledge, skill and competency in real estate appraisal.

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3. Credit toward the classroom hour requirement to satisfy the continuing education requirements shall be granted only where the length of the educational offering is at least two hours and the licensee participated in the full length of the program.

4. As outlined in Part III of these regulations all certified general real estate appraisers, certified residential real estate appraisers, and licensed residential real estate appraisers shall complete 20 classroom hours prior to the renewal of any license. Three classroom hours shall cover recent developments in federal, state and local real estate appraisal law and regulation.

B. Instruction.

Although continuing education offerings are not required to be taught by board certified instructors, these offerings must meet the standards set forth in § 5.3 A of these regulations.

§ 5.4. Procedures for awarding prelicense and continuing education credits.

A. Course credits shall be awarded only once for courses having substantially equivalent content.

B. Proof of completion of such course, seminar, workshop or conference may be in the form of a transcript, certificate, letter of completion or in any such written form as may be required by the board. All courses, seminars and workshops submitted for prelicensure and continuing education credit must indicate the number of classroom hours.

C. Information which may be requested by the board in order to further evaluate course content includes, but is not limited to, course descriptions, syllabi or textbook references.

D. All transcripts, certificates, letters of completion or similar documents submitted to verify completion of seminars, workshops or conferences for continuing education credit must indicate successful completion of the course, seminar, workshop or conference. Applicants must furnish written proof of having received a passing grade in all prelicensure and continuing education courses submitted.

E. Credit may be awarded for prelicensure courses completed by challenge examination without classroom attendance, if such credit was granted by the course provider prior to July 1, 1990, and provided that the board is satisfied with the quality of the challenge examination that was administered by the course provider.

F. All courses seminars, workshops, or conferences, submitted for satisfaction of continuing education requirements must be satisfactory to the board.

G. Correspondence courses, video and remote TV educational offerings may be acceptable to meet the classroom hour requirements for prelicensure and continuing education courses provided each course or offering is approved by the board and has been presented by an accredited college, university, junior or community college; the student passes a written examination administered at a location by an official approved by the college or university; the subject matter was appraisal related; and that the course or offering is a minimum of 15 classroom hours in length.

§ 5.5. Course approval fees.

Course Approval Fee \$200

§ 5.6. Re-approval of courses required.

Approval letters issued under these regulations for educational offerings shall expire two years from the last day of the month in which they were issued, as indicated in the approval letter.

Footnotes

¹ The Uniform Standards of Professional Appraisal Practice ("USPAP") Copyright (c) 1987, 1990 are published by the Appraisal Foundation. All rights reserved. Copies of the Uniform Standards of Professional Appraisal Practice are available from the Appraisal Foundation, 1029 Vermont Avenue, NW, Suite 900, Washington D.C. 20005. The cost is \$25.

Some of the provisions contained in the Uniform Standards of Professional Appraisal Practice are inapplicable to real estate appraisals, and therefore are not applicable to Virginia Appraiser Board licensees. For example, the USPAP includes standards for the performance of personal property appraisals and a license is not required to perform such appraisals.

² The board shall not be responsible for the licensee's/registrant's failure to receive notices, communications and correspondence caused by the licensee's/registrant's failure to promptly notify the board of any change of address.

³ The board shall not be responsible for the licensee's/registrant's failure to receive notices, communications and correspondence caused by the licensee's/registrant's failure to promptly notify the board of any change of name.

⁴ Application of the Departure Provision of USPAP is not allowed for all federally related transactions requiring the services of an appraiser.

12. Generation	
O Jr.	<input type="radio"/>
O II	<input type="radio"/>
O III	<input type="radio"/>
O IV	<input type="radio"/>
O V	<input type="radio"/>

11. Registered Agent, Partner, Associate, or Sole Proprietor	
Last Name	First Name
111. <input type="text"/>	

13. ADDRESS - Street Name	
<input type="text"/>	

7. City	
<input type="text"/>	

9. Zip Code + 4	
<input type="text"/>	

10. Telephone	
<input type="text"/>	

5. BUSINESS ADDRESS - Street Name	
<input type="text"/>	

6. BUSINESS ADDRESS - P.O. BOX NUMBER ONLY	
<input type="text"/>	

Address Continued on the Next Page.

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Real Estate Appraiser Board Experience Log

Name: _____
 Social Security Number: (not required) _____
 Page _____ of _____

TYPE OF LICENSE
 General
 Certified Residential
 Certified Professional

TYPE OF PROPERTY

- Single family residential
- Multifamily, 2-3 units
- Vacant lots, 1-4
- Farms (non income producing)
- Multifamily, more than 5 units
- Commercial
- Industrial
- Hotel, motel
- Office
- Subdivision projects
- Land
- Other

VALUE RANGE

- \$0 - \$100,000
- \$100,001 - \$250,000
- \$250,001 - \$1,000,000
- \$1,000,001 - \$5,000,000
- Over \$5,000,000

MARKING INSTRUCTIONS

- Use #2 PENCIL only.
- Darken the oval completely.
- Erase clearly any marks you wish to change.
- Do not make any stray marks on this form.

PROPER MARK: 

IMPROPER MARKS: 

YEAR	ASSIGNMENT IDENTIFICATION	TYPE OF PROPERTY	RANGE OF VALUE	TYPE OF INVOLVEMENT	HOURS ON ASSIGNMENT	FOR REAS USE ONLY
1		1	1	Fee/Staff Appraiser	100 200 300 400 500 600 700 800 900	
19		2	2	Sole appraiser	10 20 30 40 50 60 70 80 90	
2		3	3	Co-signer	1 2 3 4 5 6 7 8 9	
19		4	4	Ad valorem	1 2 3 4 5 6 7 8 9	
3		5	5	Real Estate counseling	1 2 3 4 5 6 7 8 9	
19		6	6	Teaching	1 2 3 4 5 6 7 8 9	
4		7	7	Fee/Staff Appraiser	100 200 300 400 500 600 700 800 900	
19		8	8	Sole appraiser	10 20 30 40 50 60 70 80 90	
5		9	9	Co-signer	1 2 3 4 5 6 7 8 9	
19		10	10	Ad valorem	1 2 3 4 5 6 7 8 9	
6		11	11	Real Estate counseling	1 2 3 4 5 6 7 8 9	
19		12	12	Teaching	1 2 3 4 5 6 7 8 9	
7		13	13	Fee/Staff Appraiser	100 200 300 400 500 600 700 800 900	
19		14	14	Sole appraiser	10 20 30 40 50 60 70 80 90	
8		15	15	Co-signer	1 2 3 4 5 6 7 8 9	
19		16	16	Ad valorem	1 2 3 4 5 6 7 8 9	
9		17	17	Real Estate counseling	1 2 3 4 5 6 7 8 9	
19		18	18	Teaching	1 2 3 4 5 6 7 8 9	
10		19	19	Fee/Staff Appraiser	100 200 300 400 500 600 700 800 900	
19		20	20	Sole appraiser	10 20 30 40 50 60 70 80 90	
20		21	21	Co-signer	1 2 3 4 5 6 7 8 9	
19		22	22	Ad valorem	1 2 3 4 5 6 7 8 9	
20		23	23	Real Estate counseling	1 2 3 4 5 6 7 8 9	
19		24	24	Teaching	1 2 3 4 5 6 7 8 9	
20		25	25	Fee/Staff Appraiser	100 200 300 400 500 600 700 800 900	
19		26	26	Sole appraiser	10 20 30 40 50 60 70 80 90	
20		27	27	Co-signer	1 2 3 4 5 6 7 8 9	
19		28	28	Ad valorem	1 2 3 4 5 6 7 8 9	
20		29	29	Real Estate counseling	1 2 3 4 5 6 7 8 9	
19		30	30	Teaching	1 2 3 4 5 6 7 8 9	

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-01-36. General Relief (GR) Program - Locality Options.

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

Public Hearing Date: N/A - Written comments may be submitted until January 17, 1992.

(See Calendar of Events section for additional information)

Summary:

This regulation continues the options that were added to nine of the General Relief Program components by the emergency regulation published in the March 25, 1991, Virginia Register of Regulations. The options include a new assistance unit, limits on assistance received from some components, a second time limit for some components, and a contracted provider requirement for prescription drugs.

VR 615-01-36. General Relief (GR) Program - Locality Options.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Agency" means the local department of social services.

"Agency contract" means the local department of social services has an agreement with a pharmacy to provide prescription drugs for recipients of General Relief.

"Assistance for unattached children" means a component of the General Relief Program that can provide assistance to children who would be eligible for Aid to Dependent Children (ADC) if the relationship requirement were met.

"Assistance for unemployed employable individuals" means a component of the General Relief Program that can provide assistance to individuals who are not working but are able to work.

"Assistance for unemployable individuals" means a component of the General Relief Program that can provide assistance to individuals who are unable to work because of physical or mental disability, age or lack of training, illness in the family, or home responsibilities.

"Assistance unit" means the individual or group of individuals whose needs, income, and resources are considered in determining eligibility for a component.

"Clothing assistance" means a component of the General Relief Program that can be used to purchase clothing for individuals who have an emergency need.

"Component" means a specific type of assistance provided under the General Relief Program.

"Emergency medical assistance" means a component of the General Relief Program that can be used to purchase medical assistance for individuals who have an emergency need. The component is composed of 11 subcomponents including prescription drugs.

"Food credit authorization assistance" means a component of the General Relief Program that can be used to purchase food for individuals who have an emergency need.

"General Relief Plan" means the document completed by a local department of social services to identify the components included in the General Relief Program for the locality.

"General Relief Program (GR)" means an optional program funded by state (62.5%) and local funds (37.5%) with the primary purpose of assisting individuals who do not qualify for aid in a federal category. The program is supervised by the State Department of Social Services and administered by local agencies. Each agency chooses the components and subcomponents to be included in its General Relief Program.

"Interim assistance" means a component of the General Relief Program that can provide assistance to individuals who have applied for Supplemental Security Income (SSI), who must apply for SSI, or are appealing an SSI decision.

"Maximum for the locality" means the amount of reimbursable assistance applicable to some components based on the agency group. Agencies are placed in one of three groups based on shelter expenses in the area.

"Monthly maximum" means the dollar amount of assistance specified in the General Relief Plan for some components.

"Ongoing medical assistance" means a component of the General Relief Program that can be used to provide individuals continuing medical assistance. The component is composed of 10 subcomponents including prescription drugs.

"Reimbursable" means the amount an assistance unit can receive per month for which the state/local match is available.

"Relocation assistance" means a component of the General Relief Program that can be used to move individuals who have an emergency need.

"Rent/house payments" means a subcomponent of the

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shelter assistance component that can be used to pay housing expenses.

"Shelter assistance" means a component of the General Relief Program that can be used to provide shelter needs of individuals who have an emergency need. The component's two subcomponents are rent/house payments and utility payments.

"Standard of assistance at 90% of need" means the amount of reimbursable assistance applicable to some components based on the size of the assistance unit and the agency group. Agencies are placed in one of three groups based on shelter expenses in the area.

"Subcomponent" means a part of a component.

"Utility payments" means a subcomponent of the shelter assistance component that can be used to pay for items, such as electricity, oil, water, and natural gas.

PART II AVAILABLE ASSISTANCE.

§ 2.1. Assistance for unemployed employable individuals.

An agency electing to provide this component will specify in its General Relief Plan the types of assistance units served. The choices are:

1. Parents and their minor children.
2. A parent and minor children.
3. A married couple with no children.
4. One individual.
5. An unmarried pregnant woman.

§ 2.2. Assistance for unemployable individuals.

An agency electing to provide this component will specify in its General Relief Plan the amount of assistance that can be received by an assistance unit in 12 consecutive months. The choices are:

1. The standard of assistance at 90% of need times three.
2. The standard of assistance at 90% of need times six.
3. The standard of assistance at 90% of need times nine.
4. The standard of assistance at 90% of need times 12 or the maximum for the locality times 12.

§ 2.3. Ongoing medical assistance.

A. Amount of assistance.

An agency electing to provide this component will specify in its General Relief Plan the amount of assistance that can be received by an assistance unit in 12 consecutive months. The choices are:

1. Three times the monthly maximum.
2. Six times the monthly maximum.
3. Nine times the monthly maximum.
4. Twelve times the monthly maximum.

B. Prescription drugs.

An agency electing to provide this subcomponent will specify in its General Relief Plan whether recipients are required to obtain drugs at a pharmacy with an agency contract. The choices are:

1. Recipients are not required to buy prescription drugs from a contracted pharmacy.
2. Recipients are required to buy prescription drugs from a contracted pharmacy.

§ 2.4. Interim assistance.

An agency that elects to provide this component but does not elect to provide assistance for unemployable individuals will specify in its General Relief Plan whether interim assistance will be restricted to assistance units with an individual with a disability that will last 12 months, has lasted 12 months, or will result in death. The choices are:

1. Assistance will not be restricted.
2. Assistance will be restricted.

§ 2.5. Assistance for unattached children.

An agency electing to provide this component will specify in its General Relief Plan the amount of assistance that can be received by an assistance unit in 12 consecutive months. The choices are:

1. The standard of assistance at 90% of need times three.
2. The standard of assistance at 90% of need times six.
3. The standard of assistance at 90% of need times nine.
4. The standard of assistance at 90% of need times 12 or the maximum for the locality times 12.

§ 2.6. Food credit authorization assistance.

An agency electing to provide this component will specify in its General Relief Plan the maximum number of months that assistance can be received by an assistance unit. The choices are:

1. Assistance will be provided for a maximum of one to six months out of six consecutive months.
2. Assistance will be provided for a maximum of one to 12 months out of 12 consecutive months.

§ 2.7. Shelter assistance.

A. Maximum number of months.

An agency electing to provide this component will specify in its General Relief Plan the maximum number of months that assistance can be received by an assistance unit. The choices are:

1. Assistance will be provided for a maximum of one to six months out of six consecutive months.
2. Assistance will be provided for a maximum of one to 12 months out of 12 consecutive months.

B. Rent/house payments.

An agency electing to provide this subcomponent will specify in its General Relief Plan the maximum number of months that assistance can be received by an assistance unit. The choices are:

1. Assistance will be provided for a maximum of one to six months out of six consecutive months.
2. Assistance will be provided for a maximum of one to 12 months out of 12 consecutive months.

C. Utility payments.

An agency electing to provide this subcomponent will specify in its General Relief Plan the maximum number of months that assistance can be received by an assistance unit. The choices are:

1. Assistance will be provided for a maximum of one to six months out of six consecutive months.
2. Assistance will be provided for a maximum of one to 12 months out of 12 consecutive months.

§ 2.8. Emergency medical assistance.

A. Maximum number of months.

An agency electing to provide this component will specify in its General Relief Plan the maximum number of months that assistance can be received by an assistance

unit. The choices are:

1. Assistance will be provided for a maximum of one to six months out of six consecutive months.
2. Assistance will be provided for a maximum of one to 12 months out of 12 consecutive months.

B. Prescription drugs.

An agency electing to provide this subcomponent will specify in its General Relief Plan whether recipients are required to obtain drugs at a pharmacy with an agency contract. The choices are:

1. Recipients are not required to buy prescription drugs from a contracted pharmacy.
2. Recipients are required to buy prescription drugs from a contracted pharmacy.

§ 2.9. Clothing assistance.

An agency electing to provide this component will specify in its General Relief Plan the maximum number of months that assistance can be received by an assistance unit. The choices are:

- A. Assistance will be provided for a maximum of one to six months out of six consecutive months.
- B. Assistance will be provided for a maximum of one to 12 months out of 12 consecutive months.

§ 2.10 Relocation assistance.

An agency electing to provide this component will specify in its General Relief Plan the maximum number of months that assistance can be received by an assistance unit. The choices are:

- A. Assistance will be provided for a maximum of one to six months out of six consecutive months.
- B. Assistance will be provided for a maximum of one to twelve months out of 12 consecutive months.



DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

Title of Regulation: VR 690-30-001. Standards for Secure Detention Homes.

Statutory Authority: §§ 16.1-311 and 66-10 of the Code of Virginia.

Proposed Regulations

Public Hearing Date: N/A – Written comments may be submitted until January 31, 1992.

(See Calendar of Events section for additional information)

Summary:

This proposed regulation establishes operating standards for the care and custody of youth in secure detention homes.

These standards cover all aspects of the operation of a juvenile secure detention home and address areas such as organization, confidentiality of information, personnel qualifications and training, requirements for the physical facilities, support staff services, programs and services for residents, medical care, security, and facility rules.

These standards are issued as a new regulation by the board which commenced operations on July 1, 1990. These standards are a revision and update of similar standards issued by the Board of Corrections as VR 230-40-008 on April 13, 1983.

VR 690-30-001. Standards for Secure Detention Homes.

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 content clearly indicates otherwise:*

“Actively supervising” means that staff are awake, alert, accessible to residents and directly responsible for monitoring the behavior and needs of the residents in his care.

“Behavior management” means planned and systematic use of various techniques selected according to group and individual differences of children and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior and to reduce or eliminate undesirable behavior

“Chemical agent” means an active substance, like tear gas or mace, used to deter activities that might cause personal injury or property damage.

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

“Community treatment program” means services that are available to both youth sentenced to detention homes and youth other than those under court order or commitment to secure facilities. These services are provided by agencies in the community at locations

outside the detention home.

“Contraband” means any item or merchandise possessed by a resident, staff or visitor or found within the facility which is illegal by law or expressly prohibited or not authorized by those legally charged with the responsibility for administration and operation of the facility.

“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.

“Crisis intervention” means the systematic use of various techniques selected according to specific situations and designed to reduce or to eliminate the immediate situation.

“Dormitory” means a room used as a sleeping area for more than two residents.

“Family planning” means education is delivered in an age appropriate manner which includes the human reproduction process, reproduction as a choice, personal responsibility for the care of self and others in physically intimate situations, and preventing sexually transmitted diseases.

“Health authority” means the physician, administrator or agency responsible for the provision of health care services at an institution or system of institutions; the responsible physician may be the health authority.

“Health-trained staff person” means a person who provides assistance to a physician, nurse, or other medical staff.

“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 subject’s needs.

“Isolation” means placing a resident in a room that is separated from the general population with the door secured in a manner that will prohibit the resident from opening it. Isolation is the same as seclusion.

“Major rule violation” means any actions which are illegal by law and expressly prohibited or unauthorized by those legally charged with the responsibility for administration and operation of the facility. These actions include any which threaten life, safety and security of persons or property.

“Mechanical restraint” means the application of

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machinery or tools as a means of physically restraining or controlling a resident's behavior, such as handcuffs, shackles or strait jackets.

"Medical appliances" means items prescribed for use by a physician to include; hearing aids, contact lenses, glasses, dental appliances, etc.

"Medical screening" means a preliminary evaluation of a resident's general health condition which includes the resident's assessment of his condition as performed by staff during the admission of a new resident.

"Minor rule violation" means any action which is expressly prohibited or unauthorized by those legally charged with the responsibility for administration and operation of the facility.

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

"Program" means the planned application of staff and resources to achieve the stated mission of the facility.

"Rated capacity" means the original architectural design capacity plus or minus capacity resulting from building additions, reductions, or revisions.

"Release" means the transfer of a resident, and the authority to supervise the resident, to another agency or individual.

"Resident" means a person admitted to the facility for supervision, care, training, or treatment on a 24-hour basis.

"Resident's file or record" means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plans with periodic revisions, progress reports, aftercare plans, discharge summary and any other data related to the resident.

"Responsible physician" means a medical doctor licensed in the Commonwealth of Virginia contracted to provide primary medical services to a detention home and responsible for medical procedures, standing orders and training of nonmedical staff who administer medication.

"Restraint" means to prevent a resident from harming himself, other residents, staff or property belonging to residents, staff or facility.

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

"Room restriction" means placing a resident in his room, or a room similar in size and furnishings to the

resident's room and in an area normally used by the facility's general population, with the door secured in a manner that will prohibit the resident from opening it.

"Self-protection" means that physical force necessary to ensure one's life, the life of others or to protect one from serious injury.

"Sentenced youth" means youth admitted to a detention home pursuant to § 16.1-284.1 or § 16.1-292 of the Code of Virginia.

"Serious incident" means a harmful or potentially harmful situation involving residents or staff. This term includes death of a resident, fires causing injury, death, or significant damage, hostage taking, riots, staff on resident assault, resident on staff assault causing injury, escape, rape or forcible sodomy, suicide and suicide attempts, serious injuries to residents or staff on duty, allegations of child abuse, and felony arrests of staff or volunteers.

"Shift assignment" means the general schedule of duties and activities which occur within a shift.

"Substitute youth care worker" means an employee who performs youth care as a replacement for or supplement to regular full-time youth care staff.

"Visit by the chief administrator or designee" means actual entry into the room of a resident on room restriction status or removal of the resident from the room for the purpose of discussion or counseling. A visit does not include routine visual checks or discussion through the door or window.

Article 2. Legal Base.

§ 1.2. The Code of Virginia is the foundation for the development of Minimum Standards for Secure Detention Homes. Section 16.1-311 directs the State Board of Youth and Family Services to establish minimum standards for the construction and equipment of detention homes for the feeding, clothing, medical attention, supervision and care of resident detained therein.

§ 1.3. The State Board of Youth and Family Services is authorized to promulgate standards and monitor the activities of the department and its effectiveness in implementing the standards and goals of the board, as specified by § 66-10 of the Code of Virginia.

PART II. ADMINISTRATION AND ORGANIZATION.

Article 1. Administration.

§ 2.1. The Minimum Standards for Secure Detention adopted by the Board of Corrections April 13, 1983, and the Standards for Confinement to Post Dispositional

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Detention and Court Service Units adopted by the Board of Corrections January 16, 1986, are superseded on the effective date of these standards.

§ 2.2. *These standards shall be applicable in conjunction with Core Standards also promulgated by the Board of Youth and Family Services.*

§ 2.3. *These standards shall become effective*

Article 2. Organization.

§ 2.4. *Within each secure detention facility there shall be one chief administrator to whom all employees are responsible.*

§ 2.5. *When a facility is located on property shared with another agency or facility, it shall be solely dedicated for the detention of youth, separately administered, and have a completely separate program.*

§ 2.6. *There shall be a written statement describing mission, philosophy, objectives, programs and services.*

§ 2.7. *The program shall not exceed rated capacities determined by the State Board of Youth and Family Services.*

§ 2.8. *The program shall not be staffed with fewer youth care and treatment personnel than provided for in staffing patterns established by these and other applicable standards promulgated by the State Board of Youth and Family Services.*

§ 2.9. *There shall be a written policy and procedures manual available 24 hours a day to all staff. This manual shall be approved by the parent agency authority, reviewed annually by the chief administrator, updated as necessary and communicated to all staff and volunteers.*

Article 3. Insurance.

§ 2.10. *There shall be premises and professional liability insurance, physical plant insurance, employees blanket bond and insurance to protect volunteers.*

Article 4. Participation of Residents in Research.

§ 2.11. *Human research involving residents which includes biological studies, epidemiological investigations, or medical treatment of an experimental nature, shall have prior approval from the Department of Youth and Family Services' Human Research Review Committee and shall be consistent with Chapter 13 (§ 37.1-234 et seq.) of Title 37.1 of the Code of Virginia.*

Article 5. Confidentiality and Release of Information.

§ 2.12. *Written policy, procedure, and practice shall govern the security of information and data collection systems.*

§ 2.13. *Written procedure shall provide for documented informed consent in accordance with § 16.1-300 of the Code of Virginia prior to each release of information. The informed consent documentation shall include:*

1. *Name of person, agency or organization requesting information;*
2. *Name of facility releasing information;*
3. *Specific information being disclosed;*
4. *Date consent form signed;*
5. *Signatures of resident, parent or guardian and counsel when required; and*
6. *Purpose for which information shall be used.*

§ 2.14. *Written policy, procedures, and practice shall require that a written summary of the resident's behavior and other significant observations be made available to the proper authorities.*

§ 2.15. *Written procedure shall provide for security, confidentiality and destruction of photographs, video tapes, audio tapes and computer files and diskette; developed as a part of case management, supervision, or training where such materials divulge the identity of the resident.*

Article 6. Residents' Records.

§ 2.16. *There shall be a separate case record for each youth which includes the following:*

1. *Documented legal authority to accept the youth;*
2. *Information on referral source;*
3. *Record of court appearances;*
4. *Completed release of information forms, if applicable;*
5. *Completed signed and dated documentation of orientation;*
6. *Record of telephone calls;*
7. *Notation of temporary absences from the facility if applicable;*
8. *Name of probation officer or caseworker assigned;*
9. *Progress reports, resident's behavior and other*

significant observations or progress on program involvements;

10. Disciplinary reports/records;

11. Statement that program rules and disciplinary policy are reviewed with resident;

12. Referrals to other agencies;

13. Final discharge or transfer documentation, if applicable; and

14. Documentation of all instances where staff use physical force or restraint, including self-defense.

§ 2.17. Case records developed by the detention home shall be uniform in format and required content.

§ 2.18. Written policy, procedures, and practice shall require that all entries in the resident's record shall be dated and signed or initialed.

§ 2.19. For facilities that have a computer based record system, the system shall have the capacity to post the identity of the person making the entries into the log or record as well as date and time of that entry. The system security shall be such that subsequent entries to the log or records will bear the current date and time of that entry and not overwrite the previous electronic date stamp.

PART III. PERSONNEL.

Article 1.

Written Personnel Policies and Procedures.

§ 3.1. Written policy, procedure and practice shall guard against employees and others in positions of control from using their official position to secure privileges for themselves or others, nor shall they engage in activities that constitute a conflict of interest.

§ 3.2. The agency, commission, or unit of government operating a facility shall have and make available to all staff, written policies and procedures in the following areas:

1. Recruitment and selection,
2. Grievance and appeal,
3. Annual employee evaluation,
4. Confidentiality of employee personnel records,
5. Discipline,
6. Equal employment opportunity,

7. Leave and benefits,

8. Resignations and terminations,

9. Promotion, demotion and transfer,

10. Probationary period, and

11. Compensation.

§ 3.3. Written policy, procedures, and practice shall require that staff always be in plain view of staff of the opposite sex when entering an occupied area housing the opposite sex.

§ 3.4. Written policy, procedure, and practice provide that staff who have direct contact with residents receive a physical examination conducted by a licensed physician prior to job assignment.

§ 3.5. Written policy, procedure, and practice require a preemployment background investigation for all prospective employees which includes a criminal record check, fingerprint check, driving record check, and check of the Child Abuse and Neglect Central Registry, to ascertain whether there are criminal acts or other circumstances that may be detrimental to the health, safety, and well-being of the residents in care.

§ 3.6. There shall be written shift assignments for each shift made available to all staff.

Article 2.

Job Descriptions and Qualifications.

§ 3.7. The employee's job descriptions, knowledge, skills and abilities shall comply with those approved by the State Board of Youth and Family Services.

Article 3.

Staff Development.

§ 3.8. Prior to assuming their duties, staff responsible for supervision of residents shall receive a minimum of 40 hours of orientation training which includes, but is not limited to, the following:

1. Program philosophy for treating residents,
2. Residents' rules and regulations,
3. Residents' rights and responsibilities
4. Residents' disciplinary and grievance procedure,
5. Security procedures,
6. Documentation requirements,
7. Review of facility policies, procedures and all applicable standards,

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8. Routine medical and medical emergency procedures,

9. Administration of medication,

10. Shift assignments,

11. Implementation of emergency procedures, and

12. Services provided by the program.

§ 3.9. All full-time staff in direct supervision of residents or administration of programs shall receive annual training in techniques for verbal intervention and physical restraint as approved or conducted by the Department of Youth and Family Services. If for documented medical reasons a staff member is unable to take this training, that person shall always work with a person who has successfully completed the training.

§ 3.10. All substitute resident care staff shall receive training appropriate to their assignment as designated by the chief administrator or designee. This training shall include, but not be limited to, being kept current with program changes, behavior management and discipline.

§ 3.11. In addition to the 40 hours orientation, all full-time staff and permanent part-time staff in direct supervision of residents or administration of programs within the next 12 months shall receive 40 hours of training and thereafter shall receive 40 hours annually. The first year of training shall include, but not be limited to:

1. On the job training;

2. Adolescent development;

3. CPR (if for medical reasons a staff member is unable to take this training, that person shall always work with a person who holds a valid CPR certificate);

4. Multi-media first aid;

5. Basic skills for youth care workers as approved by the Department of Youth and Family Services basic skills curricula shall include but is not limited to:

a. Intake;

b. Juvenile justice system;

c. Adolescent issues;

d. Helping skills;

e. Legal issues;

f. Safe secure environment;

g. Professionalism;

6. Behavioral documentation;

7. Techniques for verbal and physical intervention;

8. Suicide prevention;

9. Report writing; and

10. Communicable disease training.

§ 3.12. All staff with the responsibility for juvenile supervision shall receive annual training in the implementation of the suicide prevention and intervention program.

Article 4.

Staff Supervision of Residents.

§ 3.13. Written policy, procedures, and practice shall provide for staff supervision of residents, which include but are not limited to the following:

1. Staff awareness of specific behaviors/needs of residents served;

2. Required sight or sound supervision of resident in care; or

3. Designations or descriptions of appropriate versus inappropriate interactions between staff and residents.

§ 3.14. At the beginning of each shift, staff responsible for supervision of residents shall read and sign or initial the daily log(s).

§ 3.15. When residents are on the premises, there shall be at least one youth care staff actively supervising.

§ 3.16. When male and female residents are in residence at the facility, there shall be male and female youth care staff on duty and actively supervising.

§ 3.17. Written policy, procedures, and practice shall provide that staff visually check at least every 30 minutes those residents placed in their rooms with the doors securely locked.

§ 3.18. Written policy, procedure, and practice shall require that staff responsible for the supervision of residents during meals be seated with the residents during meals and shall be served the same meal, except for accommodating necessary special diets required for such staff or resident.

Article 5.

Volunteers and Students.

§ 3.19. Written policy, procedure, and practice require that all students and volunteers seeking positions

involving routine and regular contact with residents shall undergo the preemployment background investigation required in § 3.5.

§ 3.20. There shall be documentation that volunteers and students complete an orientation and training program which includes confidentiality of information regarding residents before they participate in their assignments.

§ 3.21. Volunteers and students shall agree in writing to abide by all facility policies and procedures.

§ 3.22. Written procedure shall provide the chief administrator the authority to curtail, postpone or discontinue the services of a volunteer, volunteer organization or student, when there is sufficient reason for doing so.

PART IV. RESIDENTIAL ENVIRONMENT.

Article 1. Inspections.

§ 4.1. Written policy, procedure, and practice shall require weekly sanitation and safety inspections of all areas by designated staff. This staff shall submit a written report to the chief administrator documenting findings. The inspection shall include but not be limited to standby lighting, batteries, power generators, communication systems, alarms and general condition of buildings and grounds. When applicable, repairs or equipment replacement shall be completed.

§ 4.2. Procedures shall require staff to conduct daily health, safety and security inspections in areas occupied by residents. Inspections shall be documented and deficiencies reported to designated staff.

§ 4.3. Procedures shall provide monthly inspection by staff of standby lighting, batteries, power generator(s), fire fighting apparatus, communications systems and alarms, and defective equipment shall be repaired or replaced as necessary.

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

§ 4.4. In all facilities constructed or renovated after the effective date of these standards, single occupancy sleeping rooms shall have at least 80 square feet of floor space.

§ 4.5. In all facilities constructed or renovated after the effective date of these standards, there shall be a minimum of nine cubic feet of secure storage space for each resident for storage of personal belongings.

§ 4.6. In all facilities constructed or renovated after the

effective date of these standards, there shall be at least 15 square feet of floor space for each person occupying the dining room or dining area.

§ 4.7. In all facilities constructed or renovated after the effective date of these standards, there shall be at least 30 square feet provided for each resident in the day room on each living unit.

§ 4.8. In all facilities constructed after the effective date of these standards, school classrooms, designed in cooperation with school authorities for a maximum of 15 pupils, shall have a minimum of 160 square feet for the teacher's desk and work area and 30 square feet for each resident.

§ 4.9. In all facilities with a capacity of 20 or more residents planned and constructed after the effective date of these standards, there shall be a central medical room with medical examination facilities.

§ 4.10. In all facilities planned and constructed after the effective date of these standards, the total indoor activity area shall provide space equivalent to 100 square feet per resident.

§ 4.11. In all facilities planned and constructed after the effective date of these standards, there shall be a separate indoor space for vigorous exercise in inclement weather; this space shall have no less than 1,500 square feet of floor space with a ceiling height of no less than 18 feet.

§ 4.12. In all facilities planned and constructed after the effective date of these standards, the perimeter security shall provide bullet-proof glazing for all windows visible to the facility's exterior.

§ 4.13. Flame retardant and nontoxic materials shall be used in construction wherever possible.

Article 3. Physical Plant.

§ 4.14. The exterior area shall be keyed under a different master system than that used for the security area.

Article 4. Heating and Ventilation Systems.

§ 4.15. All facility rooms shall be heated and ventilated without devices that create supervision and safety problems; if air conditioning or temperate air is used, alternate ventilation shall be available in the event of a power failure.

Article 5. Plumbing and Toilet Facilities.

§ 4.16. All housing and activity areas shall provide for, at a minimum:

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1. Toilets accessible to residents;
2. Wash basins with hot and cold running water accessible to residents; and
3. Drinking fountains available to residents.

§ 4.17. Water for showers shall be thermostatically controlled at a temperature no higher than 120 degrees Fahrenheit.

Article 6.

Personal Hygiene Equipment and Laundry.

§ 4.18. Articles necessary for maintaining proper personal hygiene shall be provided to residents.

§ 4.19. Written procedures shall require that residents' clothing and towels are exchanged and laundered at least twice a week; sheets shall be exchanged and laundered at least once a week.

§ 4.20. Written procedure shall require that there shall be a thorough cleaning and disinfecting of resident's personal clothing when contaminated.

Article 7. Sleeping Areas.

§ 4.21. All sleeping rooms shall have at a minimum:

1. Toilet facilities;
2. Wash basin with hot and cold running water;
3. Adequate lighting, including night lighting sufficient for observation of the resident;
4. Circulation of fresh air;
5. Standard single size bed elevated from the floor, a clean covered mattress, and blankets as needed; and
6. Natural lighting.

§ 4.22. Sleeping rooms shall be single occupancy.

§ 4.23. Male and female residents shall not occupy the same sleeping room. They may be housed in the same living unit.

§ 4.24. The core and cover of all mattresses and pillows shall be fire retardant.

Article 8. Outdoor Recreation Space.

§ 4.25. There shall be a level, well-drained outdoor recreation area which provides 200 square feet of space for each resident based on the maximum number of residents allowed in the area at one time. This area shall

be enclosed by a fence or wall which provides adequate security.

Article 9. Storage and Inventory.

§ 4.26. There shall be a written policy, procedures, and practice that specifies the control, storage and use of all flammable, toxic and caustic materials in accordance with state and local requirements.

§ 4.27. There shall be written policy, procedures, and practice governing the control and accountability of all security, maintenance, educational, recreational, culinary, and medical equipment.

Article 10. Office Space, Security and Equipment.

§ 4.28. There shall be private interview space available near the living unit.

§ 4.29. Space shall be provided for administrative, professional and clerical staff, including conference rooms, storage rooms for records, lobby and toilet facilities.

§ 4.30. The control or central room in each living unit shall have a telephone and shall command a full view of the general living area.

§ 4.31. Adequate space, equipment, supplies and material shall be provided for the performance of health care delivery.

§ 4.32. The facility shall have the equipment necessary to maintain essential lights and communications in the event of an emergency. There shall be written procedures requiring that such equipment be tested at least every two weeks.

Article 11. Food Service.

§ 4.33. Written policy, procedures, and practice shall prohibit the presence of residents in the kitchen and other areas used for food preparation or the storage of food or culinary utensils.

Article 12. Maintenance and Support Services.

§ 4.34. Written policy, procedures, and practice shall prohibit requiring a resident to perform the duties of a janitor, maintenance person or other staff member or contractor, to engage in structural repair, or to clean or maintain areas away from the facility.

§ 4.35. Offenders from adult correctional institutions or any person performing services to the facility as a result of a conviction in an adult court shall not work in areas when residents are present.

§ 4.36. Written policy, procedure, and practice shall provide direct and continuous supervision by facility staff of outside personnel performing services to the facility when in the presence of residents.

§ 4.37. Buildings, equipment, grounds and facilities shall be maintained according to an annual plan of preventive maintenance.

PART V. PROGRAMS AND SERVICES.

Article 1. Admissions.

§ 5.1. Written policy, procedures and practice shall provide that at the time of admission, staff and the resident shall discuss the services that are available, the rules governing conduct, possible disciplinary actions, and fire evacuation procedures. Residents shall be provided written orientation material. The completion of the admissions procedures shall be documented by staff member and resident's signatures.

§ 5.2. Written policy, procedures and practice for admitting youth shall address, but not be limited to, the following:

1. Verification of legal authority to detain;
2. Search of the resident and the resident's possessions;
3. Disposition of resident's clothing and personal possessions;
4. Medical screening;
5. Issuance of clean clothing, towels and linen;
6. Notification of family including admission, visitation and general information;
7. Interview by staff to obtain identifying information;
8. Notifying resident that staff are available on request to discuss problems;
9. Explanation of program rules and expectations, program services and schedule(s);
10. Explanation of grievance procedure; and
11. Assignment to a housing unit.

§ 5.3. Written policy, procedure, and practice shall prohibit routine placement of residents in room restriction status upon admission.

§ 5.4. Written policy, procedures, and practice shall provide for completing an admission form for every

admitted resident and placing the form in the resident's record. The admission form shall contain the following information:

1. Date and time of admission;
2. Name of resident;
3. Resident's social security number;
4. Physical description of resident (height, weight, color of hair, eyes, sex, race/nationality);
5. Last known address of resident, name of person/facility with whom resident resided and telephone number;
6. Name, title and signature of delivering officer;
7. Specific charge(s);
8. Legal jurisdiction;
9. Name and telephone number of counsel, if any;
10. Date of birth;
11. Place of birth;
12. Religious preference of resident or parents;
13. Names, addresses, and telephone numbers for emergency contacts to include parents/guardians or representative of the agency placing the resident, as applicable;
14. Health status;
15. Medical forms;
16. Court and disposition, if any;
17. Additional comments, to include notations of open wounds, sore requiring medical treatment, evidence of disease or body vermin, tattoos, etc.); and
18. Signature of person recording data.

§ 5.5. Written policy, procedures, and practice shall require initiation of programs and services for all residents as soon as admissions procedures are completed.

Article 2. Transfers.

§ 5.6. Written procedures shall require that case records and other pertinent information, including medical, scholastic, and behavioral observations, are sent with state wards when transported by the Reception and Diagnostic Center staff.

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§ 5.7. *Written policy, procedure and practice for the release of residents shall include but not be limited to:*

1. *Verification of identity;*
2. *Identification of the agency or person to whom this resident was released; and*
3. *Return of personal property.*

Article 3.

Post-Dispositional Confinement Program and Service.

§ 5.8. *There shall be a written agreement between the detention home and the court service unit of the committing court, defining roles and responsibilities for the implementation of the community treatment service plan for sentenced residents.*

§ 5.9. *There shall be a written description of the post-dispositional program and the services available at the detention facility and in the community.*

§ 5.10. *A detention home approved to hold sentenced youth shall not use more than 20% of its rated capacity for such youth at any one time, and such sentenced youth shall not be placed when the detention home is at capacity.*

§ 5.11. *The detention home shall designate a staff member as having primary responsibility for the coordination of services for each sentenced resident as defined in the Community Treatment Service Plan.*

§ 5.12. *Acceptance for confinement in the post-dispositional program shall be based on an order pursuant to § 16.1-284.1 or § 16.1-292 of the Code of Virginia.*

§ 5.13. *Written policy, procedure, and practice shall provide for a staff meeting on each resident sentenced for more than 30 days within five working days of the resident's admission pursuant to § 16.1-284.1 or § 16.1-292 of the Code of Virginia. Representatives of the court service unit and the detention home shall participate in this meeting. The resident, parent(s) or legal guardian, and community treatment program(s) shall be informed of the staff meeting no less than 48 hours in advance.*

§ 5.14. *Residents sentenced for more than 30 days shall receive the services of one or more community treatment programs during their confinement.*

§ 5.15. *A written Community Service Treatment Plan, based on information derived from the social history of the resident and other assessments made by the facility and court service unit, shall be developed for each resident within five working days of admission and placed in the resident's file and a copy shall be sent to the court service unit and other responsible agencies within three working days following completion.*

§ 5.16. *The Community Service Treatment Plan shall include, but not 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 service delivery 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.*

§ 5.17. *Community Treatment Service Plans shall, at a minimum, address the following areas:*

1. *Helping the resident and the parents or guardian to understand the effects on the resident of separation from the family and the effect of group living in the detention home;*
2. *Assisting the resident and the family in maintaining their relationships and planning for future care of the resident after release;*
3. *Utilizing appropriate community resources in providing services and maintaining contacts with such resources;*
4. *Helping the resident with problems affecting the ability to have satisfying personal relationships and developing a capacity for interpersonal growth;*
5. *Conferring with the youth care staff to help them understand the resident's needs in order to promote adjustment to group living; and*
6. *Working with the resident and with the family or any placing agency that may be involved in planning for the resident's future and in preparing the resident for return home, for independent living, or for other residential care.*

§ 5.18. *The following parties shall participate, unless clearly inappropriate, in developing the initial Community*

Treatment Service plan;

1. *The resident;*
2. *The resident's family or guardian;*
3. *The placing agency; and*
4. *Facility staff.*

§ 5.19. *The staff responsible for daily implementation of the resident's service plan shall report on the resident's behavior in terms of progress toward achieving the objectives in the service plan.*

§ 5.20. *Written policy, procedures, and practice shall provide that residents sentenced to more than 30 days, beginning no later than the initial 30-day court review, be temporarily released at least once every seven days for purpose(s) specified in the Community Treatment Service Plan. All such releases shall be documented in a central log or case record. Use of uniformed law-enforcement officers, or physical restraining devices, or marked law-enforcement vehicles shall not constitute a release for Community Treatment Service Plan purposes.*

§ 5.21. *Written procedures shall require that the provision of counseling and social services shall be documented in each resident's record.*

§ 5.22. *Counseling and other social services required by the Community Treatment Service Plan shall be provided through at least one of the following means:*

1. *By a staff member qualified to provide the service;*
2. *By service staff of the agency that placed the resident, provided such staff is available on a regular or as needed basis rather than on a limited basis; or*
3. *On a contract basis by a professional service provider licensed to practice in the Commonwealth of Virginia, other state(s) or the District of Columbia.*

§ 5.23. *The staff designated under § 5.11 shall complete and provide written progress reports to the committing court at least every 30 days which shall include:*

1. *Reports of significant incidents, both positive and negative;*
2. *Reports of visits with the family;*
3. *Changes in the resident's family situation;*
4. *Progress made toward the goals and objectives described in the Community Treatment Service Plan required by § 5.15;*
5. *School reports, if applicable; and*

6. *Discipline problems in the facility and the community.*

§ 5.24. *A comprehensive discharge summary shall be placed in the resident's record no later than 30 days after discharge. This comprehensive discharge summary and discharge plan shall be submitted to the supervising agency. The comprehensive discharge summary shall include the following:*

1. *The period of time the youth was held at the facility;*
2. *The name of the youth's designated case coordinator;*
3. *Information concerning new or currently prescribed medication, including the dosage, when and why prescribed, and instructions for continuing medication;*
4. *A summary of the youth's progress during placement;*
5. *A summary of family contacts during placement; and*
6. *Reason for discharge.*

Article 4. Residential Services.

§ 5.25. *Written policy, procedure and practice shall provide that staff be available to talk with any resident when the resident is upset or in need of advice regarding his adjustment in detention or other personal problem.*

§ 5.26. *There shall be one or more daily log books, bound with consecutively numbered pages and written in ink, containing at a minimum for each shift the following information per shift:*

1. *Population count;*
2. *Location of residents;*
3. *Admission and release of residents;*
4. *Residents' visitors, date, time and name of residents visited;*
5. *Incoming and outgoing telephone calls of residents;*
6. *Serious incidents;*
7. *Significant behavior of specific residents and any action taken;*
8. *Disciplinary action taken;*
9. *Name of person authorizing room restriction;*

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10. Name of person authorizing release from room restriction;

11. Time of release from room restriction; and

12. Names of staff on duty, name of staff making entry, signature or initials of staff making entry, and time and date of entry.

§ 5.27. For facilities that have a computer based record system, the record shall contain items one through 12 of the above. The system shall have the capacity to post the identity of the person making the entries into the log or record as well as date and time of that entry. System security shall be such that subsequent entries to the log or records will bear the current date and time of that entry and not overwrite the previous electronic date stamp.

§ 5.28. Written policy, procedures, and practice shall require documentation of serious incidents in a daily log and the resident's case record if applicable. The facility administrator or his designee shall immediately notify the Department of Youth and Family Services regional office of serious incidents.

§ 5.29. Written policy, procedures, and practice shall provide for the immediate notification of the committing agency and parents or guardians in the event of a resident's death, serious illness, or serious injury.

§ 5.30. Written policy, procedures, and practice shall require that inventory be made of each resident's personal possessions. Any possessions retained shall be kept in a secure place and returned to the resident at the time of release. The inventory list shall be signed by the resident and the staff member taking the inventory, and a copy given to the resident.

§ 5.31. Written policy, procedures, and practice shall provide for the disposition of unclaimed and missing property.

Article 5. Health Care.

§ 5.32. Written policy, procedure and practice shall require that medical screening be performed on all youth upon admission and documented in the youth's record or medical file. This may be performed by health-trained or qualified facility staff.

§ 5.33. The medical screening interview shall include:

1. Pregnancy screening, when applicable;
2. Venereal disease screening;
3. Current illnesses and health problems;
4. Behavioral observation, including state of

consciousness and mental status and suicide ideation;

5. Notation of body deformities, trauma markings, bruises, lesions, ease of movement, jaundice, etc.;

6. Condition of skin and body orifices, including rashes and infestations;

7. Allergies;

8. Immunization status;

9. Alcohol and other drug use, including prescription drugs;

10. Gynecologic problems;

11. Medications; and

12. Medical disposition.

a. General population, or

b. General population with appropriate referral to health care service, or

c. Referral to appropriate health care service for emergency treatment.

§ 5.34. Written policy, procedure and practice require that within seven days of admission, a medical examination shall be performed by a physician or registered nurse to determine the health of each youth. This examination shall include:

1. Review of health screening;

2. More complete medical, dental, immunization and psychiatric history;

3. Height, weight, vital signs;

4. Physical examination and dental screening;

5. Gynecological examination;

6. TB skin test (if not documented within last year);

7. Laboratory/diagnostic tests as deemed necessary by a physician including tests for sexually transmitted diseases and other communicable diseases;

8. Initiation of any needed treatment, referrals, medication and therapy; and

9. If the examination is conducted by a nurse, the results are reviewed by a physician as determined by criteria set forth by the responsible physician and countersigned by the physician.

§ 5.35. Written policy, procedure, and practice shall

provide for youth who remain in the facility for more than 30 days:

1. Immunizations as needed; and

2. A dental examination and oral hygiene instruction, with follow-up, high priority care if not performed within the previous 12 months.

§ 5.36. Written policy, procedures, and practice require that pregnant females shall receive appropriate prenatal care, nutrition guidance and counseling as deemed necessary by a physician.

§ 5.37. Written policy, procedures, and practice require that information regarding access to health care services shall be provided orally and in writing to juveniles upon their arrival at the facility.

§ 5.38. Written policy, procedure and practice require that there shall be unimpeded access to health care and a system for processing complaints regarding health care.

§ 5.39. There shall be a written 24-hour emergency medical and dental care plan that includes arrangements for:

1. Emergency evacuation of the juvenile from within the facility;

2. Use of an emergency medical vehicle;

3. Use of one or more designated hospital emergency departments or other appropriate health facilities;

4. Emergency on-call physician and dentist services when the emergency health facility is not located nearby; and

5. Security procedures that provide for the immediate transfer of juveniles when appropriate and on-site first aid and crisis intervention.

§ 5.40. There shall be a designated health authority responsible for arranging all levels of health care and ensuring residents' access to all health services.

§ 5.41. An agreement shall exist between the facility and a nearby hospital for all medical services which cannot otherwise be provided.

§ 5.42. Written policy, procedure and practice shall provide that when a youth is in need of hospitalization, a parent or guardian or staff member accompanies the youth and stays at least during admission.

§ 5.43. Written policy, procedures, and practice provide that upon admission to the hospital, the court of jurisdiction shall be notified and clarification for continued supervision shall be requested.

§ 5.44. Written policy, procedure and practice shall require that all medical examinations, treatments and procedures affected by informed consent standards in the community be observed for the care of residents and the informed consent of the resident, parent, guardian or legal custodian apply where required by statute.

§ 5.45. Written policy, procedure and practice shall require that the case file or medical record contain the complete medical screening information, medical examination information, all findings, diagnoses, treatments, dispositions, prescriptions and administrations.

§ 5.46. There shall be written procedures approved by the responsible physician for:

1. Obtaining medical consent;

2. Receiving screening;

3. Health appraisal data collection;

4. Nonemergency medical services;

5. Emergency medical, mental health, and dental services;

6. Deciding the emergency nature of illness or injury;

7. Rendering first aid;

8. Notification of next of kin or legal guardian in case of serious illness, injury or death;

9. Making staff aware of special medical problems;

10. Implementing special medical programs;

11. Delousing procedures;

12. Pharmaceuticals;

13. Control and administration of prescribed medication; and

14. Special diets.

§ 5.47. Written policy, procedures, and practice shall require that residents' health complaints be documented and processed at least daily by health-trained staff and followed by appropriate triage and treatment by qualified health personnel where indicated.

§ 5.48. Written policy, procedures, and practice shall provide that nonemergency sick call, conducted by a physician or a nurse, shall be available to each juvenile at least three times a week.

§ 5.49. Medical care shall be paid for through the youth's parents' medical insurance, other forms of health coverage or other resources whenever possible and the efforts shall

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be documented. However, health care shall be provided on a timely basis.

§ 5.50. Written policy, procedure, and practice shall require the chief administrator of the detention home to confer with the Court Services Unit Director and other involved officials to determine how medical expenses arising from preexisting conditions can be met, as needed, on a case by case basis.

§ 5.51. Written policy, procedure and practice shall require that juveniles who are undergoing withdrawal do so at a hospital or medically supervised community detoxification center. A resident who is admitted to the detention home under the influence of a substance, but not undergoing withdrawal, shall be visually observed by staff at least every four minutes.

§ 5.52. Written policy, procedures, and practice shall provide that, in an emergency, arrangements for psychiatric services be made by staff in consultation with the court of jurisdiction and a physician, where possible.

§ 5.53. The youth's parents/legal guardians, legal custodians and referring agency shall be notified within 24 hours when emergency medical or psychiatric care is necessary.

§ 5.54. There is a written suicide prevention and intervention program which includes specific procedures for intake screening, identification, and supervision of suicide-prone residents. This program is reviewed annually by a qualified medical or mental health professional. All staff with responsibility for juvenile supervision are trained annually in the implementation of the suicide prevention program.

§ 5.55. When a youth is released to another agency from a secure detention facility, there shall be documentation that the following information or items accompanied the youth:

1. Health/medical information received from other agencies or individuals;
2. Record of immunizations if available;
3. Record of any physical/psychiatric problems experienced by the youth while in the program and any recommended follow up care;
4. At least a 10-day supply of currently prescribed medication, unless the receiving agency or facility waives this requirement; and
5. Any medical appliances used by the youth.

§ 5.56. There shall be written procedure for notifying program staff of individual requirements or restrictions as dictated by youth's medical needs. Staff shall be provided with specific instructions for meeting these needs.

Article 6. Medication.

§ 5.57. Medication shall not be prescribed for the sole purpose of discipline or management of the program.

§ 5.58. Accurate records of all medication administered shall be maintained and shall include:

1. Name of medication;
2. Dosage amount;
3. Prescribed schedule of administration, when applicable;
4. Date and time of administration;
5. Initials or name of staff administering the medication; and
6. Name of youth receiving the medication.

§ 5.59. There shall be a written procedure for the disposal of discontinued, unused or expired medication.

§ 5.60. Nonmedical staff who administer medications shall receive training approved by the Board of Nursing which addresses proper techniques and documentation procedures.

Article 7. Discipline and Behavior Management.

§ 5.61. Corporal punishment shall be prohibited.

§ 5.62. Written rules and types of sanctions with the disciplinary procedures to be followed shall be explained to each new resident and posted conspicuously in each living unit.

§ 5.63. Written policy, procedures, and practice shall require staff to prepare a disciplinary report where there is reasonable belief that a resident has committed a major rule violation or a reportable minor violation. Such reports shall contain, but not be limited to the following information:

1. Specific rule(s) violated;
2. A formal statement of the charge;
3. Any unusual behavior;
4. Any staff or resident witnesses;
5. Disposition of any physical evidence;
6. Any immediate action taken, including the use of force; and

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7. Reporting person's signature, date and time of report.

§ 5.64. Written policy, procedures, and practice shall prohibit any resident from exercising supervision and control over other residents.

§ 5.65. Written policy, procedures, and practice shall provide that prior to suspension of privileges or other disciplinary action, the reasons are explained to the resident. The resident shall have the opportunity prior to or subsequent to the action to discuss the incident with staff who imposed the sanctions.

§ 5.66. Written policy, procedures, and practice shall require that when a resident has committed a major rule violation requiring room restriction, the resident be returned to the population as soon as possible.

§ 5.67. Written policy, procedures, and practice shall require that when a resident's behavior requires room restriction prior to a due process disciplinary hearing, the resident may be placed in room restriction status for a period not to exceed 24 hours.

§ 5.68. Written policy, procedures, and practice shall require that residents placed in room restriction be visually checked every 15 minutes, and visited by the chief administrator or his designee once during the day and once in the evening before sleeping hours, except where this contact creates a security or safety breach.

§ 5.69. If the disposition of a disciplinary hearing includes additional room restriction, the following elements of review shall be required by policy, procedure, and practice:

1. The resident is informed of the reasons for the action being taken;
2. There shall be provisions for an impartial hearing to review the reasons for the restriction and to make a decision on the facts presented at the hearing;
3. The resident is present and participates in the hearing;
4. The resident is given assistance in presenting his position, if requested;
5. A written statement is made of the findings, including the evidence relied on and the reasons for the decision;
6. The resident may appeal all disciplinary actions to an administrator by face to face contact;
7. Room restriction shall be reviewed within every 24-hour period; and
8. Any room restriction in excess of 72 hours shall be

reported to the Department of Youth and Family Services regional office.

§ 5.70. Written policy, procedures, and practice shall require that room restriction shall take place in the sleeping area or a room designated as appropriate by the chief administrator or designee. Residents placed on room restriction shall be afforded a room or sleeping area, food, and clothing comparable to those available to the general population. However, a resident's clothing may be confiscated only if demonstrable and documented behavior indicates that the specific items of clothing confiscated pose a threat to the safety of the resident.

§ 5.71. A permanent log is maintained of all residents placed in room restriction. Information documented on each resident shall include:

1. Name of person authorizing room restriction;
2. Date and time room restriction begins;
3. Reason for room restriction;
4. Anticipated release date and time;
5. Special medical or psychiatric problems or needs;
6. Clothing confiscated, and reason for confiscating clothing, if applicable;
7. Names, dates, and times of persons visiting residents in room restriction; and
8. Actual release time and date.

§ 5.72. Written policy, procedures, and practice shall restrict the use of physical force and physical restraints to instances of justifiable self-protection, protection of others, protection of property, or prevention of escapes, and then only as a last resort and in accordance with appropriate statutory authority.

§ 5.73. Written policy, procedures, and practice shall govern the availability, control and use of chemical agents. Chemical agents shall be used only as a means of last resort for the control of residents in situations posing imminent danger to the safety of residents or staff, and never for punishment. These procedures shall provide at a minimum:

1. The explicit and documented authorization for use by the chief administrator or designee;
2. Training and certification of staff on the control and use of chemical agents;
3. Immediate decontamination of residents, staff, and facility after use;
4. Immediate examination of residents and staff by

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qualified medical personnel; and

5. Detailed written documentation, and immediate notification of the regional office on instances of use.

§ 5.74. Written policy shall prohibit the storage, possession, or use in the facility of devices designed to incapacitate persons by electricity, such as "stun guns."

§ 5.75. Written policy shall prohibit firearms in the facility, except that firearms may be stored in secured lockers outside the secure areas of the facility by law-enforcement officials conducting business at the facility.

§ 5.76. Written policy, procedures, and practice shall govern the use of mechanical restraint equipment. Instruments of restraint such as handcuffs shall never be applied as punishment.

Article 8. Residents' Rights.

§ 5.77. Written policy, procedure and practice shall provide that residents are not subject to discrimination based on race, national origin, color, creed, sex or physical handicap.

§ 5.78. Written policy, procedures, and practice provide that in coeducational facilities, male and female residents shall have equal access to all programs and activities.

§ 5.79. Written policy, procedures, and practice shall provide that where a language or literacy problem exists which can lead to resident's misunderstanding of program rules and regulations, assistance be provided to the resident either by staff or other qualified individual under the supervision of staff.

§ 5.80. Written policy, procedures, and practice shall provide for residents to receive and make telephone calls.

§ 5.81. Written policy, procedures, and practice shall require that, unless judicially authorized, no one other than authorized detention home staff shall be permitted to remove a resident from the secure detention facility.

§ 5.82. Written policy, procedures, and practice shall prohibit anyone from questioning a resident about an alleged offense or action pending before the court without permission of either the committing agency, attorney, parent or legal guardian, or other persons standing in loco parentis, unless permitted by other applicable standards or statutes.

§ 5.83. Written policy, procedures, and practice shall provide that there be no restrictions on the right of residents to determine the length or style of their hair, to include facial hair, except in individual cases where such restrictions are necessary for reasons of health.

§ 5.84. Written policy, procedures, and practice shall govern a written resident grievance procedure which ensures that each resident has the right to file a grievance and ensures that no adverse action is taken against the grievant as a result of the filing of the grievance.

§ 5.85. Written policy, procedures, and practice shall provide for the hearing of resident grievances by administrative staff not involved in the substance of the grievance.

§ 5.86. Written policy, procedure, and practice shall provide that residents not be discharged or transferred solely for the convenience of the facility or to make space for other admissions.

Article 9. Mail.

§ 5.87. Written policy, procedures, and practice shall require that incoming and outgoing mail be inspected or read by facility staff only when there is a reasonable suspicion that it contains contraband or otherwise poses a threat to the safety and security of resident, staff or facility. Mail read or checked for contraband shall be opened by the resident in the presence of facility staff and such actions shall be documented.

§ 5.88. Written policy shall provide that correspondence and mail addressed from a court, legal counsel or administrators of the grievance system shall not be read by staff.

§ 5.89. Written policy, procedures, and practice shall require that incoming and outgoing mail shall not be held for more than 24 hours, excluding weekends, holidays and when a resident is absent from the facility.

§ 5.90. Written procedures shall allow residents to send confidential correspondence to parents and family, legal guardian, counsel, courts, officials of the committing authority, public officials or administrators of the grievance procedure.

§ 5.91. Written policy, procedures, and practice shall provide residents the right to correspond with persons or organizations, subject only to the limitations necessary to maintain facility order and security.

§ 5.92. Written policy, procedures, and practice shall provide that the chief administrator ensure that residents are provided postage and writing materials for the mailing of a minimum of two letters per week for each resident and for all legal correspondence.

Article 10. Visitation.

§ 5.93. Written policy, procedures, and practice shall provide that residents be afforded the opportunity for

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family visitation, including physical contact with visitors, except when the safety of an individual is in question. The procedures for visitation shall be made available to all residents, parents or legal guardians and referring agencies.

§ 5.94. Written policy, procedures, and practice shall provide for visitations at least once during the week and once on weekends. Special allowances shall be made for parents or guardians when there are extenuating circumstances which prohibit visitation at scheduled times.

§ 5.95. Written policy, procedures, and practice shall provide that visitation by family members be limited to parents or legal guardians. Exceptions shall be made upon the committing agency's recommendation and the concurrence of the chief administrator or designee.

§ 5.96. Written procedures shall provide for revocation of visitation privileges when visitation rules and procedures are violated.

§ 5.97. Written procedures shall specify that visitors register upon entry and provide identification.

§ 5.98. Written policy, procedures, and practice shall provide that a residents have confidential access to legal counsel.

§ 5.99. There shall be a visiting area which allows for privacy during visitation.

Article 11. Security Within the Facility.

§ 5.100. Written policy, procedures, and practice shall govern the control, detection, and disposal of contraband.

§ 5.101. Written policy, procedures, and practice shall provide for the regular search of the facility for the control of contraband.

§ 5.102. Written policy, procedures, and practice shall provide for the search of residents and disposal of contraband which:

1. Prohibit searches unless there are reasonable grounds to suspect that the residents may possess or had access to contraband;
2. Prohibit undue force;
3. Require that searches be conducted in such a manner as to minimize the embarrassment to the resident;
4. Require that searches be conducted only by authorized personnel;
5. Require that body cavity searches be performed only by qualified medical personnel and witnessed by

staff of the same sex as the resident;

6. Require that strip searches are performed and witnessed by staff of the same sex as the resident;

7. Include procedures for searches at intake;

8. Include procedures for the use of non-intrusive or other electronic equipment, if feasible; and

9. Provide for control and disposal of seized of contraband.

§ 5.103. Where a crime is suspected, written policy, procedure and practice shall govern searches and the preservation of evidence. Such searches shall be authorized only by the chief administrator or designee.

§ 5.104. The facility shall have a written agreement with local law-enforcement regarding responsibilities and actions to be taken in the event of a major incident.

§ 5.105. Written policy, procedures, and practice shall govern the control and use of keys. This shall include the following:

1. A key control system that accounts for the current location and possessor of each key;
2. A written numbering system for keys and identification of corresponding locks; and
3. A means of instantly identifying fire and emergency keys by sight and touch.

§ 5.106. Written policy, procedures, and practice shall require that all security perimeter entrances, exterior doors, and all doors which the chief administrator determines should be locked, are kept locked except when used for admission or exit of staff, residents, visitors or in emergencies.

Article 12. Recreation.

§ 5.107. Recreation equipment, materials and supplies shall be safe, age appropriate, durable and well maintained.

§ 5.108. Written policy, procedures, and practice provide that recreational programs shall include daily physical exercise.

Article 13. Vehicles and Transportation.

§ 5.109. Written policy shall state that public transportation not be relied upon for emergencies.

§ 5.110. There shall be written policy, procedures, and practice governing safety, maintenance, and operation of

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facility and staff vehicles used to transport residents.

§ 5.111. Written policy, procedures, and practice shall require that the facility have transportation available and make the necessary transportation arrangements in medical emergencies.

§ 5.112. Written policy, procedures, and practice shall govern supervision and transportation of all escorted and unescorted residents outside the facility perimeter. Staff involved in these activities shall be appropriately trained, as determined by the chief administrator.

PART VI. EMERGENCY AND SAFETY PROCEDURES.

Article 1. Procedures for Meeting Emergencies.

§ 6.1. Written procedure shall specify the means for the prompt release of residents from locked areas, and provide for a backup system where electrical locks are used.

§ 6.2. Written policy, procedures, and practice shall require that mechanical locks and keys be maintained in good working order. Procedures shall require daily inspection and immediate repair of locks to residents' rooms. The facility administrator shall be notified when locks are found that need repair and shall arrange for room reassignments necessitated by faulty locks.

§ 6.3. There shall be written procedure which specifies action to be taken in the event of:

- 1. Vehicular emergencies;*
- 2. Disturbances;*
- 3. Hostage situations; and*
- 4. Bomb threats.*

§ 6.4. Written policy, procedures, and practice shall provide for an emergency alternate internal communication system within the facility and between the facility and the community, in the event of an emergency or equipment failure.

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 AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

REGISTRAR'S NOTICE: Section 3.1-398 of the Code of Virginia authorizes the Commissioner of the Department of Agriculture and Consumer Services to adopt the following regulation. See the General Notices section of this issue of the Virginia Register for additional information.

Title of Regulation: VR 115-05-13. **General Rules and Regulations Pertaining to Food for Human Consumption.**

Statutory Authority: § 3.1-398 of the Code of Virginia.

Effective Date: October 28, 1991.

Summary:

This regulation ensures that the same standards are applied to foods by food establishments under the jurisdiction of the Department of Agriculture and Consumer Services that are applied by the U.S. Food and Drug Administration to food establishments. An earlier version of these regulations is already on the books. The purpose of the present regulatory action is to bring the regulations up to date and to ensure their consistency with current federal regulations.

VR 115-05-13. Regulations Pertaining to Food for Human Consumption.

Policy Statement

The State Board of Agriculture and Commerce, by resolution adopted on December 14, 1977, established as Policy, that unless otherwise directed by the Board, the applicable Administrative Guidelines of the U. S. Department of Health, Education and Welfare Administrative Guidelines Manual shall be used by the Department in the enforcement of the Virginia Food Act and regulations promulgated thereunder.

Regulation 4

Pursuant to Section 3.1-398 of the Code of Virginia, (1980) as amended, the

Preamble:

This regulation supersedes "General Rules and Regulations Pertaining to Food for Human Consumption" adopted September 26, 1977, as amended December 14, 1977.

The Board of Agriculture and Consumer Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision of this regulation.

§ 1. Adoption by reference.

A. Regulations from Title 21, Code of Federal Regulations.

The Board of Agriculture and Commerce Consumer Services hereby adopts the following parts provisions of Chapter 1 of Title 21, Subchapter B of the Code of Federal Regulations (Rev. April 1, 1977 1991) as regulations applicable in the enforcement of the Virginia Food Act by reference:

Part 100, General.

Part 101, Food labeling.

Part 102, Common or usual name for nonstandardized foods.

Part 103, Quality standards for foods with no identity standards.

Part 104, Nutritional quality guidelines for foods.

Part 105, Foods for special dietary use.

Part 109, Unavoidable contaminants in foods and food packaging materials *Unavoidable contaminants in food for human consumption and food-packaging material.*

Part 110, Current good manufacturing practice in manufacturing, processing, packing or holding human food *Current good manufacturing practice in manufacturing, packing, or holding human food.*

Part 113, Thermally processed low-acid foods packaged in hermetically sealed containers.

Part 114, Acidified foods.

Part 118, Cacao products and confectionery

Part 122, Smoked and smoke flavored fish

Part 123, Frozen raw breaded shrimp

Part 129, Processing and bottling of bottled drinking water.

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Part 133, ~~Cheeses~~ *Cheeses* and related cheese products.

Part 136, Bakery products.

Part 137, Cereal flours and related products.

Part 139, Macaroni and noodle products.

Part 145, Canned fruits.

Part 146, Canned fruit juices.

Part 150, Fruit butters, jellies, preserves, and related products.

Part 152, Fruit pies.

Part 155, Canned vegetables.

Part 156, Vegetable juices.

Part 158, Frozen vegetables.

~~Part 161, Fish and shellfish.~~

Part 163, Cacao products.

Part 164, Tree nut and peanut products.

~~Part 166, Nonalcoholic beverages~~

Part 166, Margarine.

Part 168, Sweeteners and table ~~syrups~~ *sirups*.

Part 169, Food dressings and flavorings.

~~Part 170, Pesticide chemicals in processed foods~~

§ 170.19, Pesticide chemicals in processed foods.

Part 172, Food additives permitted for direct addition to food for human consumption.

Part 173, Secondary direct food additives permitted in food for human consumption.

Part 174, Indirect food additives: General.

Part 175, ~~Indirect food additives: Adhesive coatings and components~~ *Indirect food additives: Adhesives and components of coatings.*

Part 176, Indirect food additives: Paper and paperboard components.

Part 177, Indirect food additives: Polymers.

Part 178, Indirect food additives: Adjuvants, production aids, and sanitizers.

Part 179, Irradiation in the production, processing and handling of food.

Part 181, Prior-sanctioned food ingredients.

Part 182, Substances generally recognized as safe.

Part 184, Direct food substances affirmed as generally recognized as safe.

Part 186, Indirect food substances affirmed as generally recognized as safe.

Part 189, Substances prohibited from use in human food.

~~Part 193, Tolerances for pesticides in food administered by the Environmental Protection Agency~~

B. Regulations from Title 40, Code of Federal Regulations.

The Board of Agriculture and Consumer Services hereby adopts the following provisions of Chapter 1 ; of Title 40, Subpart C Subchapter E of the Code of Federal Regulations (Rev. July 1, 1976 1990)

Part 180, Tolerances and exemptions from tolerances for pesticide chemicals in or on raw agricultural commodities.

Part 185, Tolerances for pesticides in food.

/s/ Clinton V. Turner
Commissioner
Date: October 28, 1991

/s/ Joan W. Smith
Registrar of Regulations
Date: October 28, 1991

BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

Title of Regulation: VR 155-01-2. Regulations of the Board of Audiology and Speech Pathology. Repealed.

Title of Regulation: VR 155-01-2:1. Regulations of the Board of Audiology and Speech Pathology.

Statutory Authority: §§ 54.1-100 and 54.1-103 of the Code of Virginia.

Effective Date: December 18, 1991.

Summary:

The board has approved the final regulations of the board. The new regulations (i) establish qualifications for licensure of audiologists and speech pathologists prior to January 1, 1993; (ii) establish qualifications

for licensure of audiologists and speech pathologists after January 1, 1993 (the qualifications are prescribed by the American Speech and Hearing Association for all colleges and university programs accredited by that association. Since the board requires graduation from institutes of higher learning with such accreditation, the board is adopting these qualifications in its regulations for clarity and understanding); (iii) increase renewal fees, reinstatement fees, and application fees; (iv) revise public participation guidelines to increase clarity as to how the board provides for public participation in the regulatory process; and (v) establish standards of practice and stipulate disciplinary actions available to the board in cases in which a violation of statutes and regulations occurs.

VR 155-01-2:1. Regulations of the Board of Audiology and Speech Pathology.

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 context clearly indicates otherwise:

"Audiologist" means any person who accepts compensation for examining, testing, evaluating, treating or counseling persons having or suspected of having disorders or conditions affecting hearing and related communicative disorders or who assists persons in the perception of sound and is not authorized by another regulatory or health regulatory board to perform any such services.

"Advertisement" means any information disseminated or placed before the public.

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

"Board" means the Board of Audiology and Speech Pathology.

"Department" means the Department of Health Professions.

["Director" means the director of the Department of Health Professions.]

["Educational standards board" means the clinical certification board of the American Speech-Language and Hearing Association.]

"Executive director" means the board administrator for the Board of Audiology and Speech Pathology.

"Practice of audiology or speech pathology" means the

performance for compensation of any nonmedical service, not authorized by another regulatory or health regulatory board, relating to the prevention, diagnosis, evaluation and treatment of disorders or impairments of speech, language, voice or hearing, whether of organic or nonorganic origin. Any person offering services to the public under any descriptive name or title which would indicate that professional audiology or speech pathology services are being offered shall be deemed to be practicing audiology and speech pathology.

"Speech pathologist" means any person who accepts compensation for examining, testing, evaluating, treating or counseling persons having or suspected of having disorders or conditions affecting speech, voice or language and is not authorized by another regulatory or health regulatory board to perform any such services.

Article 2. Legal Base.

§ 1.2. The following legal base describes the responsibility of the Board of Audiology and Speech Pathology to promulgate regulations governing the licensure of audiologists and speech pathologists in the Commonwealth of Virginia:

Title 54.1:

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

Chapter 24 (§§ 54.1-2400 through 54.1-2402.1);

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

Chapter 26 (§§ 54.1-2600 through 54.1-2603) of the Code of Virginia.

Article 3. Purpose.

§ 1.3. These regulations establish the standards for training, examination, licensure, and practice of persons as audiologists and speech pathologists in the Commonwealth of Virginia.

Article 4. Applicability.

§ 1.4. Individuals subject to these regulations are (i) audiologists and (ii) speech pathologists.

Exemptions: The provisions of these regulations shall not prevent (i) any persons employed by a federal, state, county or municipal agency, or an educational institution as a speech or hearing specialist or therapist from performing the regular duties of his office or position; (ii) any student, intern, or trainee in audiology or speech pathology, pursuing a course of study at an accredited university or college, or working in a recognized training center, under the direct supervision of a licensed or

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certified audiologist or speech pathologist from performing services constituting a part of his supervised course of study; (iii) a licensed audiologist or speech pathologist from employing or using the services of unlicensed persons as necessary to assist him in his practice.

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 [periodically] 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 person 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.

§ 2.1. Each licensee shall post his license in a main entrance or place conspicuous to the public in the facility in which the licensee is practicing. [request.]

§ 2.2. A licensee shall be able to produce this wallet license upon request.

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.

PART III. FEES.

Article 1. Initial Fees.

§ 3.1. The following fees shall be paid as applicable for licensure:

- 1. Application for audiology license\$125
- 2. Application for speech pathology license\$125
- 3. 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:

- 1. Audiology license renewal \$ 55
- 2. Speech pathology license renewal \$ 55

[Article 3. Reinstatement Fee.

§ 3.3. In addition to all back renewal fees, the following fee shall be paid for reinstatement of license for each year up to three years following expiration (see § 4.4):]

Article [3 4] . Other Fees.

§ [3.3. 3.4.] Duplicates.

Duplicate 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 wall certificates \$ 50

§ [3.4. 3.5.] Other information.

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

PART IV. RENEWALS.

Article 1. Expiration Dates.

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

- 1. Audiologist; and
- 2. Speech pathologist.

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

Article 2. Renewal.

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

- 1. Return the renewal notice [and applicable renewal fee] ;
- 2. Notify the board of any changes in name and address.

[§ 4.4. When a license is not renewed by the expiration date, an applicant for licensure shall:

1. Through December 31, 1992:

- a. Reapply for licensure; and
- b. Meet the board's qualifications for licensure (see § 5.2);

OR

- c. Reapply for licensure; and
- d. Meet the board's qualifications for licensure by endorsement (see § 5.1 1).

2. After January 1, 1993:

- a. Reapply for licensure; and
- b. Meet the board's qualifications for licensure (see § 5.3);

OR

- c. Meet the board's qualifications for licensure by endorsement (see § 5.1 1);]

[Article 3. Reinstatement.

§ 4.4. Reinstatement.

A. When a license is not renewed by the expiration date, the board may consider reinstatement of a license up to three years of expiration. See § 3.3.

B. A licensee who does not reinstate within three years

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as prescribed by subsection A of this section shall reapply for licensure as prescribed by Part V and meet the qualifications for licensure in effect at the time of the new application.]

PART V. REQUIREMENTS FOR LICENSURE.

Article 1. Licensure.

§ 5.1. [All candidates shall meet one of the following requirements: The board may grant a license to any applicant who meets one of the following sets of requirements for licensure:]

1. [Licensure by] Endorsement.

[a.] The board may grant a license without examination to any applicant who holds a current "Certificate of Clinical Competence," in the area in which they seek licensure issued by the American Speech-Language Hearing Association [- ; or]

[b. The board may issue a license to any applicant by endorsement when the person:

(1) Holds a current unencumbered license from any state or the District of Columbia; and

(2) Has practiced audiology or speech pathology for one year or has met the requirements of the regulations of the board for licensure of audiologists and speech pathologists or has education, experience, knowledge, skills, and abilities equivalent to the regulations of the board for licensure and has provided sufficient written evidence of those qualifications at the time of application; and

(3) Has passed a qualifying examination approved by the board.]

2. [Licensure by examination Education and examination. These requirements apply through December 31, 1992.]

[a. Examination.] The applicant shall pass a qualifying examination approved by the board. The examination shall have been passed within [two three] years preceding the date of application.

Exception: No further examination will be required for applicants having passed the board approved examination at any time prior to application if they have been actively engaged in the respective profession during the 24 months immediately preceding the date of application.

[AND]

[Article 2.

Qualifications (through December 31, 1992).]

[§ 5.2. b.] Degree [and coursework equivalency] .

[(1)] The applicant shall have completed at least 60 semester hours approved by the board from a college or university whose audiology and speech program is accredited by the Educational Standards Board [of the American Speech-Language and Hearing Association] or an equivalent accreditation.

[(2) At least 30 of the 60 semester hours shall be in courses beyond the bachelor's degree and acceptable toward a graduate degree by the college or university where these courses are taken and shall be applicable to the field for which licensure is sought. See Appendix 1.]

[AND]

[§ 5.2. Coursework]

[The applicant shall have completed the following coursework:

1. 12 semester hours in courses that provide fundamental knowledge applicable to the normal development and use of speech, voice, hearing and language; and

2. 42 semester hours in courses providing knowledge about the training in the management of speech, voice, hearing and language disorders, and information supplementary to such fields. Of these 42 semester hours:-

a. At least six semester hours shall be in audiology for those desiring a license as a speech pathologist, or in speech pathology for those desiring a license as an audiologist;

b. No more than six semester hours may in courses that provide academic credit for clinical practice;

c. At least 24 semester hours, including no more than three semester hours of credit for thesis or dissertation, shall be in the field in which the license is sought; and

d. At least 30 semester hours shall be in courses beyond the bachelor's degree and acceptable toward a graduate degree by the college or university where these courses are taken and shall be applicable to the field for which licensure is sought.]

[§ 5.4. c.] Supervised clinical experience. The applicant shall have completed 300 clock hours of direct client contact hours with individuals presenting a variety of disorders of communication. This experience shall have been within the college

or university attended by the applicant or within a clinical training program acceptable to the board. A minimum of 200 clock hours shall be in the professional area in which licensure is sought, that is, in either audiology or speech pathology.

[Article 3.]

[Qualifications (to begin January 1, 1993).]

[3. Education and examination. These requirements are effective January 1, 1993.

a. Examination. The applicant shall pass a qualifying examination approved by the board. The examination shall have been passed within three years preceding the date of application.

Exception: No further examination will be required for applicants having passed the board approved examination at any time prior to application if they have been actively engaged in the respective profession during the 24 months immediately preceding the date of application.]

[AND]

[§ 5.5. b.] Degree [and coursework equivalency].

[Effective January 1, 1993, the] [(1) Degree. The] applicant shall hold [, at a minimum,] a Master's degree or its equivalent from a college or university whose audiology and speech program is accredited by the Educational Standards Board [of the American Speech-Language and Hearing Association] or an equivalent accreditation:

[§ 5.6. (2)] Coursework (all candidates). [Effective January 1, 1993, the] The] applicant shall have completed at least 75 semester hours of coursework [from a college or university whose audiology and speech program is accredited by the Educational Standards Board or an equivalent accreditation as follows: . Twenty-seven of the 75 semester hours shall be in basic science and 36 of the 75 semester hours shall be in professional coursework. See Appendices II and III.]

[AND]

[1. Basic science coursework. At least 27 of the 75 semester hours (see § 5.6) shall be in basic science coursework as follows:

a. Six semester hours in biological/physical sciences and mathematics;

b. Six semester hours in behavioral or social sciences; and

c. 15 semester hours in basic human communication processes to include the anatomic and physiologic

basis, the physical and psychophysical bases, and the linguistic and psycholinguistic aspects.]

[2. Professional coursework. At least 36 of the 75 semester hours (see § 5.6) shall be in professional coursework. At least 30 of the 36 semester hours of professional coursework shall be in courses for which graduate credit was received. Six of the 36 semester hours of professional coursework may be at the undergraduate level.

a. Speech and language candidates.

(1) Six of the 30 graduate credits prescribed in subdivision 2 of § 5.6 shall be required in audiology.

(a) Three semester hours in hearing disorders and hearing evaluation; and

(b) Three semester hours in habilitative/rehabilitative procedures.

(2) At least 21 of the 30 semester hours of graduate credit prescribed in subdivision 2 of § 5.6 shall be in the professional area in which licensure is sought.

(a) Six semester hours in speech disorders;

(b) Six semester hours in language disorders; and

(c) Nine semester hours in electives in speech and language.

(3) Three of the 30 semester hours of graduate credit prescribed in subdivision 2 of § 5.6 may be electives in any area of graduate credit (speech, language, or audiology).

b. Audiology candidates.

(1) At least six of the 30 graduate credits prescribed in subdivision 2 of § 5.6 shall be required in speech-language pathology, not associated with hearing impairment, as follows:

(a) Three semester hours in speech disorders; and

(b) Three semester hours in language disorders.

(2) At least 21 of the 30 semester hours prescribed in subdivision 2 of § 5.6 shall be in the professional area in which licensure is sought:

(a) Six semester hours in hearing disorders and hearing evaluation;

(b) Six semester hours in habilitative/rehabilitative procedures; and

(c) Nine semester hours in electives in audiology.

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(3) Three of the 30 semester hours prescribed above shall be electives in any area of graduate credit (audiology, speech, or language).

[§ 5.7. (3)] Supervised clinical experience (all candidates).

[A. (a)] The applicant shall complete 375 clock hours of supervised clinical observation and supervised clinical practicum combined. The clock hours of supervised clinical experience shall be provided by a college or university whose audiology and speech pathology program is accredited by the Educational Standards Board of [the American Speech-Language and Hearing Association] or an equivalent accreditation [or by one of its cooperating programs] . [See Appendix IV.]

[B. (b)] The supervision for the practicum and observation shall be provided by a person who is licensed by the Board of Audiology and Speech Pathology in the appropriate area of practice.

[AND]

[§ 5.8. 4.] Clinical observation. Twenty-five of the 375 clock hours (see [§ 5.5 A § 5.1 3 b(3)]) shall be in clinical observation prior to beginning clinical practicum.

[AND]

[§ 5.9. 5.] Clinical practicum. Three hundred fifty of the 375 clock hours (see [§ 5.7 5.1 3 b(3)]) shall be in a clinical practicum. At least 250 of those 350 clock hours shall be in clinical hours at the graduate level in the area in which the license is sought. At least 50 of the 350 clock hours shall be in each of three types of clinical settings such as, but not limited to, public schools, private practice, free clinic, hospital setting.

[For a specific breakdown of the clinical clock hours required for both speech/language and audiology applicants, see Appendix IV.]

[A. Speech and language candidates.

1. At least 160 of the 250 graduate clock hours prescribed in § 5.8 shall be in each of the following eight categories (20 clinical hours in each category):

- a. Evaluation: Speech disorders in children
- b. Evaluation: Speech disorders in adults
- c. Evaluation: Language disorders in children
- d. Evaluation: Language disorders in adults
- e. Treatment: Speech disorders in children

f. Treatment: Speech disorders in adults

g. Treatment: Language disorders in children

h. Treatment: Language disorders in adults

2. Up to 20 of the 250 graduate clock hours prescribed in § 5.8 shall be in related disorders in the major professional area.

3. At least 35 of the 250 graduate clock hours prescribed in § 5.8 shall be in audiology.

a. 15 clock hours in evaluation/screening

b. 15 clock hours in habilitation/rehabilitation.

c. 5 clock hours in audiology electives.

4. Thirty-five of the 250 graduate clock hours prescribed in § 5.8 shall be in electives.

B. Audiology candidates:-

1. At least 160 of the 250 graduate clock hours prescribed in § 5.8 shall be in the following (40 graduate clock hours in each area):

a. Evaluation: Hearing in children

b. Evaluation: Hearing in adults

c. Selection and Use: Amplification and assistive devices for children

d. Selection and Use: Amplification and assistive devices for children

2. At least 20 of the 250 graduate clock hours prescribed in § 5.8 shall be in treatment: Hearing disorders in children and adults.

3. Up to 20 of the 250 graduate clock hours prescribed in § 5.8 shall be in related disorders in the major professional area.

4. At least 35 of the 250 graduate clock hours prescribed in § 5.8 shall be in speech-language pathology unrelated to hearing impairment as follows:

a. 15 graduate clock hours in evaluation/screening

b. 15 graduate clock hours in treatment

c. 5 graduate clock hours in electives.

5. Fifteen of the 250 graduate clock hours prescribed in § 5.8 shall be in electives.]

Article [3 2] .
Application Process

§ [~~5-10~~ 5.2.] Prior to seeking licensure as an audiologist or speech pathologist, an applicant shall submit:

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

§ [~~5-11~~ 5.3.] All required parts of the application shall be submitted at the same time. An incomplete application 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 also will be accepted from the examining authority.

PART VI. STANDARDS OF PRACTICE.

Article 1. General.

§ 6.1. There shall be separate licenses for the practice of Audiology and Speech Pathology.

§ 6.2. It is prohibited for any person to practice as an Audiologist or Speech Pathologist unless such person has been issued a license in the appropriate classification.

§ 6.3. The titles of Audiologist and Speech Pathologist shall be reserved under law for the use by licensed practitioners only.

§ 6.4. No person unless otherwise licensed to do so, shall prepare, order, dispense, alter or repair hearing aids or parts of or attachments to hearing aids for consideration. However, audiologists licensed under this chapter may make earmold impressions and prepare and alter earmolds for clinical use and research.

Article 2. Core of Knowledge

§ 6.5. [~~The practice of audiology and speech pathology and audiology (see §§ 5-1 through 5-5) shall include. An audiologist and speech pathologist shall be able to demonstrate] knowledge [of , skills, and abilities as relevant to his specific practice in the following areas] :~~

1. Psychological and sociological aspects of human development;
2. Anatomical, physiological, neurological, psychological, and physical bases of speech, voice, hearing and language;

3. Genetic and cultural aspects of speech and language development;

4. Current principles, procedures, techniques, and instruments used in evaluating the speech, language, voice, and hearing of children and adults;

5. Various types of disorders of speech, language, voice, and hearing classifications, causes and manifestations;

6. Principles, remedial procedures, hearing aids, tinnitus devices, and other instruments used in the habilitation and rehabilitation for those with various disorders of communication;

7. Relationships among speech, language, voice, and hearing problems, with particular concern for the child or adult who presents multiple problems;

8. Organization and administration of programs designed to provide direct service to those with disorders of communications;

9. Theories of learning and behavior in their application to disorders of communication;

10. Services available from related fields for those with disorders of communication; and

11. Effective use of information obtained from related disciplines about the sensory, physical, emotional, social, and intellectual status of a child or an adult;

§ 6.6. In addition, the audiologist shall [~~have be able to demonstrate] knowledge [of , skills, and abilities relevant to the specific practice as follows] :~~

1. Conducting evaluation of the function of the auditory and vestibular systems, including the use of electrophysiological techniques and the evaluation of tinnitus;

2. Evaluation of auditory processing; and

3. Principles, procedures, and techniques of organizing and administering industrial hearing conservation programs, including noise surveys, the use of hearing protective devices, and the training and supervising of audiometric technicians.

§ 6.7. In addition, the speech pathologist shall [~~have be able to demonstrate] knowledge [of , skills, and abilities relevant to the specific practice in the following] :~~

1. [~~The] Evaluation and treatment of disorders of the oral and pharyngeal mechanism as they relate to communication, including but not limited to dysphagia; and~~

2. [~~The] Use of alternative communication devices~~

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and appliances facilitating communication.

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

Article I. Unprofessional Conduct.

§ 7.1. The board may refuse to issue 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. Guaranteeing the results of any speech, voice, language, or hearing consultative or therapeutic procedure;
2. Diagnosis or treatment of speech, voice, language, and hearing disorders by correspondence, provided this shall not preclude:
 - a. Follow-up correspondence of individuals previously seen, or
 - b. Providing the persons served professionally with general information of an educational nature.
3. Revealing to unauthorized persons confidential patient information obtained from the individual he serves professionally without the permission of the individual served;
4. Exploitation of persons served professionally by accepting them for treatment when benefit cannot reasonably be expected to occur, or by continuing treatment unnecessarily;
5. Incompetence or negligence in the practice of the profession (see § 6.5);
6. Failing to recommend a physician consultation and examination for any communicatively impaired person (before the fitting of a new or replacement prosthetic aid on such person) not referred or examined by a physician within the preceding six months;
7. Failing to refer a client to a physician when there is evidence of an impairment that might respond to medical treatment. Exception: This would not include communicative disorders of nonorganic origin.
8. Failing to supervise persons who assist them in the practice of speech pathology and audiology without being present at all times within the same building when unlicensed supportive personnel are delivering services.

9. Conviction of a felony related to the practice for which the license is granted;

10. Failure to comply with federal, state, or local laws and regulations governing the practice of audiology and speech pathology;

11. Failure to comply with any regulations of the board;

12. Inability to practice with skill and safety because of physical, mental, or emotional illness, or substance abuse;

13. Making, publishing, disseminating, circulating, or placing before the public, or causing directly or indirectly to be made, an advertisement of any sort regarding services or anything so offered to the public which contains any promise; assertion; representation; or statement of fact which is untrue, deceptive, or misleading; and

14. Exceeding the scope of practice.

[APPENDIX I. Coursework Through December 31, 1992.

The applicant shall have completed at least 60 semester hours approved by the board from a college or university whose audiology and speech program is accredited by the Educational Standards Board of the American Speech-Language and Hearing Association or an equivalent accreditation.

Of the 60 semester hours, at least 30 semester hours shall be in courses beyond the bachelor's degree and acceptable toward a graduate degree by the college or university where these courses are taken and shall be applicable to the field for which licensure is sought. (See § 5.1 2 b)

The 60 semester hours shall be broken down as follows:

1. 12 semester hours in courses that provide fundamental knowledge applicable to the normal development and use of speech, voice, hearing and language; and
2. 42 semester hours in courses in the management of speech, voice, hearing and language disorders, and information supplementary to such fields. Of these 42 semester hours:
 - a. At least 6 semester hours shall be in audiology for those desiring a license as a speech pathologist, or in speech pathology for those desiring a license as an audiologist;
 - b. No more than 6 semester hours may be in courses that provide academic credit for clinical practice;

c. At least 24 semester hours, including no more than three semester hours of credit for thesis or dissertation, shall be in the field in which the license is sought.

d. 6 semester hours may be in electives if desired or additional course work may be taken under 2.a and 2.c above.

3. 6 semester hours may be in electives.

APPENDIX II. Basic Science Coursework. Effective January 1, 1993.

A Master's degree or its equivalent from a college or university whose audiology and speech program is accredited by the Educational Standards Board of the American Speech-Language and Hearing Association or an equivalent accreditation is required.

The applicant shall have completed at least 75 semester hours of coursework.

1. Basic science coursework.

At least 27 of the 75 semester hours shall be in basic science coursework as follows:

a. 6 semester hours in biological/physical sciences and mathematics;

b. 6 semester hours in behavioral and/or social sciences; and

c. 15 semester hours in basic human communication processes to include the anatomic and physiologic basis, the physical and psychophysical bases, and the linguistic and psycholinguistic aspects.

APPENDIX III. Professional Coursework. Effective January 1, 1993.

A Master's Degree or its equivalent from a college or university whose audiology and speech program is accredited by the Educational Standards Board of the American Speech-Language and Hearing Association or an equivalent accreditation is required.

The applicant shall have completed at least 75 semester hours of coursework which includes basic science coursework (see Appendix II) and professional coursework. At least 36 of the 75 semester hours shall be in professional coursework.

A. Speech and language candidates.

1. At least 30 of the 36 semester hours of professional coursework shall be in courses for which graduate credit was received.

a. Six of the 30 semester hours of graduate credit shall be required in audiology.

(1) 3 semester hours in hearing disorders and hearing evaluation; and

(2) 3 semester hours in habilitative/rehabilitative procedures.

b. At least 21 of the 30 semester hours of graduate credit shall be in the professional area in which licensure is sought.

(1) 6 semester hours in speech disorders;

(2) 6 semester hours in language disorders; and

(3) 9 semester hours in electives in speech and language.

c. Three of the 30 semester hours of graduate credit may be electives in speech, language or audiology graduate study.

2. Six of the 36 semester hours of professional coursework may be at the undergraduate level.

B. Audiology candidates.

1. At least 30 of the 36 semester hours of professional coursework shall be in courses for which graduate credit was received.

a. At least 6 of the 30 graduate credits shall be required in speech-language pathology, not associated with hearing impairment, as follows:

(1) 3 semester hours in speech disorders; and

(2) 3 semester hours in language disorders.

b. At least 21 of the 30 semester hours shall be in the professional area in which licensure is sought:

(1) 6 semester hours in hearing disorders and hearing evaluation;

(2) 6 semester hours in habilitative/rehabilitative procedures; and

(3) 9 semester hours in electives in audiology.

c. 3 of the 30 semester hours prescribed above shall be electives in an area of graduate credit (audiology, speech, or language).

2. Six of the 36 semester hours of professional coursework may be at the undergraduate level.

APPENDIX IV. Clinical Practicum.

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Effective January 1, 1993.

The applicant shall complete 375 clock hours of supervised clinical observation (25 hours) and supervised clinical practicum (350 hours) combined.

The applicant shall gain experience by working in at least three types of clinical settings such as, but not limited to, public schools, private practice, nursing homes, free clinics, hospital settings, etc. At least 50 hours shall be served in each of the three types of settings. (See § 5.1 5)

A. Speech and language candidates.

1. For the clinical practicum, 250 of the 350 clock hours shall be at the graduate level in the area in which the license is sought.

a. At least 160 of the 250 graduate clock hours shall be in each of the following eight categories:

- (1) 20 clock hours in evaluation: speech disorders in children;
- (2) 20 clock hours in evaluation: speech disorders in adults;
- (3) 20 clock hours in evaluation: language disorders in children;
- (4) 20 clock hours in evaluation: language disorders in adults;
- (5) 20 clock hours in treatment: speech disorders in children;
- (6) 20 clock hours in treatment: speech disorders in adults;
- (7) 20 clock hours in treatment: language disorders in children; and
- (8) 20 clock hours in treatment: language disorders in adults.

b. Up to 20 of the 250 graduate clock hours shall be in related disorders in the major professional area.

c. At least 35 of the 250 graduate clock hours shall be in audiology.

- (1) 15 clock hours in evaluation/screening
- (2) 15 clock hours in habilitation/rehabilitation.
- (3) 5 clock hours in audiology electives.

d. 35 of the 250 graduate clock hours shall be in electives if desired or additional hours work may be taken under 1.a and 1.c above.

2. 100 of the 250 clock hours may be at the undergraduate level.

B. Audiology candidates.

1. For the clinical practicum, 250 of the 350 clock hours shall be at the graduate level in the area in which the license is sought.

a. At least 160 of the 250 graduate clock hours shall be in the following:

- (1) 40 clock hours in evaluation: hearing in children;
- (2) 40 clock hours in evaluation: hearing in adults;
- (3) 40 clock hours in selection and use: amplification and assistive devices for children; and
- (4) 40 clock hours in selection and use: amplification and assistive devices for adults.

b. At least 20 of the 250 graduate clock hours shall be in treatment: hearing disorders in children and adults.

c. Up to 20 of the 250 graduate clock hours shall be in related disorders in the major professional area.

d. At least 35 of the 250 graduate clock hours shall be in speech-language pathology unrelated to hearing impairment as follows:

- (1) 15 graduate clock hours in evaluation/screening;
- (2) 15 graduate clock hours in treatment; and
- (3) 5 graduate clock hours in electives.

e. 15 of the 250 graduate clock hours shall be in electives if desired or additional course work may be taken under 1.a-c above.

2. 100 of the 350 clock hours may be at the undergraduate level.]

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from the Administrative Process Act in accordance with §§ 9-6.14:4.1 B 9 and 9-6.14:4.1 B 10 of the Code of Virginia, which excludes agency action relating to (i) inmates of prisons or other such facilities or parolees therefrom; and (ii) the custody of persons in, or sought to be placed in, mental, penal or other state institutions as well as the treatment, supervision, or discharge of such persons.

Title of Regulation: VR 230-20-001. Operational Standards for Adult Institutions. Repealed.

VR 230-20-001:1. Standards for State Correctional Facilities.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Effective Date: January 1, 1992.

Summary:

These regulations establish the evaluation criteria for the administration and supervision of correctional facilities operated by the Department of Corrections throughout the Commonwealth.

These regulations establish the minimum standards to be met in ensuring the health, welfare and safety of inmates of the Commonwealth. These regulations replace VR 230-20-001, Operational Standards for Adult Institutions.

VR 230-20-001:1. Standards for State Correctional Facilities.

PART I.
INTRODUCTION.

Article 1.
Definitions.

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

"Accounting system" means department and institutional operating procedures relating to internal accounting practices.

"Administrative staff members" means staff at the department head level and above.

"Automatic smoke detection system" means a hard wired smoke alarm.

"Classified employee" means a full or part-time salaried employee of the Commonwealth whose position is governed by all rules and regulations of the Department of Personnel and Training.

"Control center" means a manned secure post which has responsibility for observing and controlling entrance and exit traffic, monitoring alarm and detection systems, operating communication systems, and controlling inmate movement and counts.

"Core program standards" means that field units must provide at a minimum life skills and substance abuse programs, and counseling services. In addition to those programs listed above, major institutions must provide sex offender and mental health programs.

"Cost containment plan" means a list of efficiency measures for meeting cost reduction standards established

by the Department of Corrections.

"Furnishings in inmate living areas" means furniture, curtains and trash receptacles.

"Hazardous material" means a substance that will cause death, severe illness, or injury if used in an unsafe manner.

"Inmate living area" means cells, rooms, dormitories and day rooms.

"Institutional Classification Committee" means several institutional staff who are appointed by the warden/superintendent to make recommendations relative to inmate program development, management and placement.

"Institutional perimeter" means the physical barrier separating the facility from the public and may include detection systems, guard towers and lights.

"Loss reports" means costs resulting from incidents and accidents to include lost wages, overtime, damaged property and medical expenses.

"Noncustodial staff" means individuals employed in nonsecurity positions.

"Organized system of information storage" means a method for the storage and retrieval of information.

"Policy and procedure manuals" means any of the following documents, Board of Corrections Policy Manual, Department of Corrections Procedure Manual, Division of Institutions Procedure Manual or the Institution Operating Procedures Manual.

"Qualified mental health professional" means a psychiatrist, psychologist, social worker or nurse who is qualified, by virtue of appropriate training and experience, to render mental health services within their discipline.

Article 2.
Legal Base.

§ 1.2. The Code of Virginia is the legal base for the development of Standards for State Correctional Facilities. Section 53.1-5 of the Code of Virginia directs the State Board of Corrections to establish program and fiscal standards for the operation of state correctional facilities.

Article 3.
Administration.

§ 1.3. VR 230-20-001, Operational Standards for Adult Institutions, adopted by the State Board of Corrections in November, 1983, is rescinded on the effective date of these standards.

§ 1.4. The primary responsibility for the application of

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these standards shall be with the Deputy Director for the Division of Institutions.

§ 1.5. These standards shall become effective on January 1, 1992.

PART II.

GENERAL ADMINISTRATION AND MANAGEMENT.

Article 1.

General Administration.

§ 2.1. The mission of the institution within the context of the division mission is stated in writing and is supported by written annual goals and objectives.

§ 2.2. The institution is headed by a warden/superintendent who is responsible for and has the authority to manage and direct all activities of the institution established by law, department or division policy.

§ 2.3. There are written agreements and contracts between the institution and other public agencies or private operators and providers which define their roles, responsibilities and relationships to the institution.

§ 2.4. The institution has an organizational chart showing the formal, as well as the functional, organizational structure of the institution.

Article 2.

Communication.

§ 2.5. Meetings are held at least monthly between the warden/superintendent and all department heads, and between department heads and their key staff members. There is a system of two-way communication between all levels of staff and inmates.

§ 2.6. Written policy, procedure and practice require that the warden superintendent or assistant warden/superintendent visit the institution's living and activity areas at least weekly.

§ 2.7. Written policy, procedure and practice provide for a public information program that encourages interaction with the public, the media and other agencies.

Article 3.

Policy and Procedure Manuals.

§ 2.8. The policies and procedures for operating and maintaining the institution are written, maintained in a manual, reviewed at least annually and are available to all employees.

PART III.

FISCAL MANAGEMENT.

Article 1.

Budgeting and Accounting Procedures.

§ 3.1. Consistent with policy, the warden/superintendent is responsible for fiscal policy, management and control. Management of fiscal operations may be delegated to a designated staff person.

§ 3.2. All institutional financial, budgetary, and accounting practices and procedures are in accordance with the Code of Virginia, the Commonwealth Accounting and Reporting System, and the Department of Corrections' policy and financial system.

§ 3.3. Institutional department heads and designated staff participate in the development of the institutional budget.

§ 3.4. Written policy, procedure and practice demonstrate that the institution has an accounting system regarding internal controls, petty cash, signature control on checks and other moneys.

Article 2.

Supplies and Equipment.

§ 3.5. The institution complies with state and departmental regulations in regard to inventory control, requisition and purchase of supplies, equipment, and insurance.

Article 3.

Inmate Funds.

§ 3.6. Written policy, procedure and practice govern the operation of inmate accounts, commissary and other inmate funds.

PART IV.

PERSONNEL.

Article 1.

Personnel Manual.

§ 4.1. There is accessible to all employees a copy of the Virginia Personnel Act, the State Personnel Manual, the Department Policy and Procedure Manual, and division and institutional operating procedure manuals.

§ 4.2. All institutional personnel policies and procedures are in accordance with the Rules for the Administration of the Virginia Personnel Act, policy directives from the Virginia Department of Personnel and Training, and departmental and divisional personnel policies.

Article 2.

Staffing.

§ 4.3. The warden/superintendent determines on an ongoing basis the staffing requirements for all categories of personnel to ensure that inmates have access to staff, programs, and services.

§ 4.4. A background investigation is conducted on all new

employees to detect any criminal convictions or other factors which have a specific relationship to job performance.

§ 4.5. All classified, nonprobationary employees of the institution have access to the Virginia Grievance Procedures.

PART V. TRAINING AND STAFF DEVELOPMENT.

Article 1. Coordination and Supervision.

§ 5.1. All major institutions shall have a full-time institutional training officer. All institutional training officers and assistants shall successfully complete a 40-hour Train the Trainer Program. Any person delivering firearms training shall have successfully completed firearms instructors' school.

§ 5.2. Written policy, procedure and practice provide that the institution's staff development and training programs are planned, coordinated, and supervised by a qualified supervisory employee.

Article 2. Training Requirements.

§ 5.3. Written policy, procedure and practice provide that the institution has a documented orientation program which shall be provided to all new employees prior to undertaking their regular job duties.

§ 5.4. All new employees are required to attend the department's formal orientational program no more than 180 days after reporting to work.

§ 5.5. Correctional officer trainees are employed on the condition that they satisfactorily complete Basic Correctional Officer Training and Corrections Security Training Phase IV within the first 12 months of employment.

§ 5.6. Staff employed in the correctional officer series, and other employees with mandated in-service training, successfully complete the in-service training required by the Department of Criminal Justice Services. Other employees meet in-service training requirements as determined by the Department of Corrections.

§ 5.7. Written policy, procedure and practice provide that all personnel authorized to use firearms receive appropriate training before being assigned to a post involving the possible use of such weapons. Competency is demonstrated on a biennial basis.

§ 5.8. All personnel authorized to use chemical agents are trained in their use and in the treatment of individuals exposed to a chemical agent.

§ 5.9. All employees designated by the director to carry a firearm in an emergency situation must satisfactorily complete noncustodial fire-arm training before carrying the weapon.

§ 5.10. Staff and inmates using potentially hazardous materials or chemicals are informed of the hazards and are instructed in their proper use and in emergency procedures. The procedures utilized to train staff and inmates are adequately documented and records are maintained for future reference.

§ 5.11. Written policy, procedure and practice require that medical and security personnel are trained in infectious material practices.

§ 5.12. Individuals in supervisory and management positions shall successfully complete leadership training on a biennial basis.

§ 5.13. Staff conducting substance abuse or sex offender programs receive training for the services they deliver.

PART VI. MANAGEMENT INFORMATION AND RESEARCH.

Article 1. Information System.

§ 6.1. The institution uses an organized system of information storage, retrieval and review.

§ 6.2. Staff having access to management information are trained in and responsive to the security and confidentiality requirements of this system.

Article 2. Research.

§ 6.3. Written policy, procedure and practice govern the conduct of research in the institution and conform with state and departmental policy and practice.

PART VII. RECORDS.

Article 1. Records Management.

§ 7.1. Institutional operating procedures governing the establishment, utilization, content, privacy, security, and accuracy of the institutional criminal record folders, institutional medical folders, and institutional treatment folders are in conformance with departmental and division policies.

§ 7.2. When an inmate is permanently transferred from one institution to another, the institutional criminal records folder and institutional medical folder will be simultaneously transferred to the receiving institution.

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Article 2. Master Index.

§ 7.3. There is at least one master index identifying the housing, bed, program and work assignments of all inmates. The institution maintains a daily written report of inmate population movement as required by departmental and division policy.

PART VIII. PHYSICAL PLANT.

Article 1. Program and Service Areas.

§ 8.1. General inmate housing areas have sanitation facilities to include access to:

1. A toilet above floor level which is available for use without staff assistance 24 hours a day,
2. A wash basin with potable water,
3. A bed above floor level,
4. Closet space or locker,
5. Natural lighting, and
6. Special use housing requirements may be altered to ensure inmate staff safety and security.

§ 8.2. Space outside the cell or room is provided for inmate exercises and leisure time activities.

§ 8.3. Space is provided for an inmate commissary or canteen, or provisions are made for a commissary service.

§ 8.4. Space is provided for a visiting room or area for contact visiting and, if required, noncontact visiting. There is a designated space to permit screening and searching of both inmates and visitors.

§ 8.5. Handicapped inmates are housed in a manner that provides for their safety and security. Rooms, cells, or housing units used by the handicapped are designed for their use and provide for integration with the general population. Appropriate institutional programs and activities are accessible to handicapped inmates confined in the facility.

§ 8.6. Space is provided at the institution to store and issue clothing, bedding, cleaning supplies, inmates' property, and other items required for daily operations.

§ 8.7. Adequate space is provided for administrative, security, professional, and clerical staff; this space includes conference rooms, storage room for records, public lobby, and toilet facilities. Adequate space is provided for janitorial closets accessible to the living and activity areas.

§ 8.8. Separate and adequate space is provided for mechanical and electrical equipment.

Article 2. Maintenance.

§ 8.9. Written policy, procedure and practice specify a preventive maintenance program for the physical plant. The program should include documentation of work performed, provisions for emergency repairs or replacement in life-threatening situations, and provisions for capital repairs.

§ 8.10. Lighting in inmate room/cells is at least 20 foot-candles at desk level in living areas and in personal grooming areas, as documented by qualified personnel. Circulation is at least seven cubic feet per minute of outside air or recirculated air containing no less than 25% outside air per minute per occupant. Air circulation/recirculation equipment and lighting inspection by qualified personnel is documented.

PART IX. SAFETY AND EMERGENCY PROCEDURES.

Article 1. Emergency Plans.

§ 9.1. There are written emergency plans which outline duties of staff, procedures, and evacuation routes. Emergency plans include responses in the event of fire, chemical release, power, water, heat loss, natural disaster, taking of hostages, riots and disturbances, escape, bomb threats, civil defense, and adverse job actions. There is a posted floor plan showing evacuation routes. The fire plan is reviewed annually by the State Fire Marshal.

§ 9.2. Fire drills are performed in accordance with the emergency plan and include evacuation of inmates (except where security would be jeopardized). Fire drills are held, documented, and evaluated for effectiveness, at least quarterly.

§ 9.3. There is documentation that, through annual site visits, the local fire department is familiar with the available equipment, physical layout, and emergency procedures of the institution. Additional site visits are required in case(s) of structural changes or additions to the facility.

§ 9.4. The institution has the equipment necessary to maintain essential lights, power, and communications in an emergency. Testing is performed weekly.

Article 2. Fire Safety.

§ 9.5. The institution is inspected at least annually by the Office of the State Fire Marshal. Action plans are written and submitted through the warden or superintendent to the appropriate regional administrator and a copy to the

individual responsible for institutional safety.

§ 9.6. Written policy, procedure and practice provide for a comprehensive and thorough monthly inspection of the institution by the individual responsible for institutional safety for compliance with safety and fire prevention standards. There is a weekly fire and safety inspection of the institution by a qualified departmental staff member. This policy and procedure is reviewed annually and updated as needed. In conjunction with the individual responsible for institutional safety, action plans to correct deficiencies shall be written. These action plans shall be directed to the unit head, the individual responsible for institutional safety and the person responsible for correcting the deficiency.

§ 9.7. The institution shall have a manual fire alarm or an automatic smoke detection system or an automatic fire suppression system in all industrial, sleeping and living areas, and action plans shall be written and submitted for all areas of deficiencies. Other areas of the institution shall also have fire detection and suppression equipment as required by the State Fire Marshal.

§ 9.8. Written policy, procedure and practice specify the institution's fire protection equipment type, use and testing to include:

1. Availability of equipment at appropriate locations throughout the institution,
2. Training on the use of the equipment,
3. Inspection of extinguishers annually,
4. Inspection and steam cleaning of range hoods semiannually,
5. Inspection of detection and suppression systems quarterly, and
6. Quarterly testing of fire alarms for function. Inspections are performed by trained and qualified personnel.

§ 9.9. Furnishings in inmate living areas, including cleanable, nontoxic and flame-retardant mattresses and pillows, are selected based on known fire safety performance characteristics and in conformance with departmental policy. Furnishings which no longer meet fire safety performance specifications are repaired or removed from service.

Article 3. Risk Management.

§ 9.10. Each institution has an established Safety Advisory Committee which meets monthly. This committee should be comprised of the individual responsible for institutional safety, key administrators, and others designated by the unit head and the DOC safety engineer.

§ 9.11. Written policy, procedure and practice provide for a safety awareness program which is to be coordinated, designed, implemented and documented by the individual responsible for institutional safety.

§ 9.12. Loss reports are maintained at each institution. An annual cost containment plan is prepared in conjunction with the individual responsible for institutional safety. The cost containment plan shall be directed to the facility head and the individual responsible for correcting the deficiency.

§ 9.13. Individuals responsible for institutional safety attend quarterly meetings.

PART X. SECURITY MANAGEMENT.

Article 1. Manuals and Procedures.

§ 10.1. There is a manual containing all procedures for institutional security and control, with detailed instructions for implementing these procedures. The manual is available to all staff and procedures are reviewed at least annually and updated if necessary.

§ 10.2. There is a written post order for each security post and a requirement for officers to read and be familiar with the order each time they assume a new post. The immediate supervisor shall document that the post order has been discussed with the officer. Post orders are reviewed annually.

§ 10.3. Written policy, procedure and practice require that correctional staff maintain a permanent log and supervisors prepare shift reports that record routine information, emergency situations and unusual incidents. A post log is maintained at each permanent post and other areas deemed necessary by the warden/superintendent.

§ 10.4. Written policy, procedure and practice provide that the institution maintains a written record of all security equipment issued.

Article 2. Security and Control.

§ 10.5. The institution's perimeter is controlled by appropriate means to ensure that inmates remain within the perimeter and to prevent unauthorized access by the general public.

§ 10.6. Written, policy, procedure and practice ensure that the institution maintains a control center which is staffed around the clock.

§ 10.7. The facility has a communication system between the control center and inmate living areas.

§ 10.8. The institution has a system for physically counting

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inmates. The system includes strict accountability for inmates assigned to work and educational release, furloughs, and other approved temporary absences.

§ 10.9. Written policy, procedure and practice provide that staff regulate inmate movement.

§ 10.10. Written policy, procedure and practice provide for searches of facilities, staff, inmates and visitors to control contraband and provide for disposition of the contraband pursuant to state law.

§ 10.11. There are institution regulations concerning the operation and use of official and personal vehicles, to include provisions for parking in areas designated by the warden/superintendent and for ensuring that the vehicle is left locked with the windows rolled up when not in use.

§ 10.12. Written policy, procedure and practice govern the use of force, firearms, chemical agents and security equipment.

§ 10.13. Written policy, procedure and practice require that the chief security officer or qualified designee conduct at least weekly inspections of all security systems. The results of inspections are reported in writing to the unit head. Documentation of corrective action is required.

Article 3.

Keys and Equipment.

§ 10.14. Written policy, procedure and practice govern the distribution, use and control of keys within the institution.

§ 10.15. Written policy, procedure and practice govern the use and storage of all tools, culinary equipment and hazardous materials, including flammable, toxic, and caustic materials.

PART XI.

SEGREGATION, ISOLATION AND DETENTION.

Article 1.

Admission and Review of Status.

§ 11.1. Written policy, procedure and practice provide that an inmate is placed in isolation for a rule violation only after a disciplinary hearing.

§ 11.2. Inmates may be assigned to isolation for a maximum period of 15 days for each major rule violation.

§ 11.3. Continuous confinement in isolation for more than 15 days requires the review and approval of the deputy director and appropriate medical authority. Inmates held in isolation for periods exceeding 30 days are provided the same privileges as inmates in segregation.

§ 11.4. Written policy, procedure and practice govern assignments to detention.

§ 11.5. General and prehearing detention are administrative assignments for the immediate secure confinement of inmates pending investigation or disciplinary hearing or review by the Institutional Classification Committee.

§ 11.6. The officer-in-charge or higher authority on duty may order an inmate to detention pending further disposition of a case.

§ 11.7. Written policy, procedure and practice provide for a review of the status of inmates in administrative segregation and protective custody by the Institutional Classification Committee at least every 45 days.

Article 2.

Conditions of Confinement and Supervision.

§ 11.8. Except in emergencies, the number of inmates confined to each cell or room shall not exceed the number for which it is designed. Should an emergency create an excess in occupancy, the warden/superintendent of the institution will provide temporary written approval and immediately proceed to alleviate the situation as promptly as possible, by making other arrangements for the inmates so confined.

§ 11.9. Isolation/segregation/detention cells or units will be well ventilated, adequately lighted, appropriately heated and maintained in sanitary conditions at all times. A general log will be kept and the temperature will be recorded at least once each shift. Inmates are housed in an environment in which the temperature does not fall below 65 degrees Fahrenheit and when the temperature exceeds 85 degrees, mechanical air circulation shall be provided.

§ 11.10. Inmates in isolation/segregation/detention will dress in state issue clothing, and should be furnished underwear, shower shoes, one mattress, one pillow, one pillow case, two sheets, blankets as needed, one towel, and washcloth. In isolation cases only, the bedding may be removed during the daytime hours. For safety and security reasons, all items may be removed from the cell.

§ 11.11. Inmates assigned to isolation/segregation/detention receive the same meals as those in the general population.

§ 11.12. Written policy, procedure and practice provide that inmates in isolation/segregation/detention will be permitted to shower and shave not less than twice per week. Clothing and underwear will be changed at shower time.

§ 11.13. Written policy, procedure and practice provide that inmates in isolation/segregation/detention can write and receive letters on the same basis as inmates in the general population, except inmates in isolation may not receive the contents of packages until approved by the warden/superintendent.

§ 11.14. Written policy, procedure and practice provide that inmates in segregation/isolation/detention have access to legal materials and the courts.

§ 11.15. Inmates in isolation shall forfeit the privileges of receiving visits from family, relatives, or friends; however, under exceptional circumstances, permission may be obtained from the warden/superintendent of the institution for such visits. Attorney visits to an inmate in isolation may not be restricted by wardens/superintendents, and attorneys will be allowed access to the inmate during normal work hours.

§ 11.16. Written policy, procedure and practice provide that inmates in isolation will be allowed to keep only the following:

1. Legal materials,
2. Religious materials,
3. Personal hygiene items defined exactly as:
 - a. Toothbrush,
 - b. Toothpaste,
 - c. Soap, and
 - d. Plastic comb.

If the offender does not have the items above, and is indigent, the institution should furnish them. All other items of inmate personal property will be stored upon assignment to isolation. Inmate personal property will be inventoried by either an officer and the inmate, or by two correctional officers. The inmate will be given a receipt for all personal property upon assignment to isolation. Inmates are limited to the purchase of postage stamps from the commissary.

§ 11.17. Institutional Operating Procedures specify the personal property that an inmate may retain while in a segregation status.

§ 11.18. Written policy, procedure and practice provide that the visitation schedule for segregated inmates shall be established by the warden/superintendent.

§ 11.19. Written policy, procedure and practice provide that inmates in segregation shall be allowed a minimum of one hour of exercise three separate days per week in an out-of-doors supervised area, weather permitting.

§ 11.20. Written policy, procedure and practice provide access to the commissary. Commissary purchases may be restricted only for security reasons. No items of a hazardous nature are allowed.

§ 11.21. A permanent individual log will be maintained in the isolation/segregation/detention unit for each inmate.

This log will show the date of admission, weight of the inmate upon entering or leaving and the name, date and time of the correctional officer making the required hourly check. The log shall contain medical requests and visits, medications administered or refused, meals refused, and other pertinent information. Written policy, procedure and practice provide for access to medical, dental and mental health care.

§ 11.22. In addition to supervision provided by the unit officers, the isolation/segregation unit will be visited daily by the shift supervisor or higher authority. Each inmate in isolation/segregation/prehearing detention should be checked no less than once per hour at staggered times by a correctional officer.

PART XII. FOOD SERVICE.

Article 1. Food Service Management.

§ 12.1. Food service operations are supervised by a full-time staff member who is experienced in food service management.

§ 12.2. All meals meet or exceed the dietary allowances stated in the Recommended Dietary Allowances, National Academy of Sciences.

§ 12.3. Written policy, procedure and practice require that accurate records are maintained of all meals served and that meals are planned in advance to assure proper food flavor, temperature and appearance.

§ 12.4. Written policy, procedure and practice provide for special diets as prescribed by appropriate medical or dental personnel.

§ 12.5. Written policy, procedure and practice provide for reasonable accommodation for inmates whose religious beliefs require adherence to religious dietary laws.

§ 12.6. Written policy, procedure and practice provide that meals are served under conditions that minimize regimentation, except when security or safety conditions dictate otherwise. All meals are served under direct supervision of staff members.

§ 12.7. Written policy, procedure and practice require that at least three meals (including two hot meals) are provided at regular meal times during each 24-hour period, with no more than 14 hours between the beginning of the evening meal and the beginning of breakfast. Variations may be allowed based on weekend and holiday food service demands and security needs, provided basic nutritional goals are met.

Article 2. Health and Safety.

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§ 12.8. Food service personnel, including inmates, receive a preassignment medical examination by medical personnel (and at least an annual examination thereafter) to ensure freedom from diarrhea, skin infections and other illnesses transmissible by food or utensils. Inmates and other persons working in food service are monitored each day for health and cleanliness by the food services manager or designee.

§ 12.9. Written policy, procedure and practice require weekly inspections of all food service areas, including dining and food preparation areas and equipment by the person supervising food service operations or his designee. Refrigerator and water temperature are checked daily.

§ 12.10. Shelf goods are maintained properly and safely, refrigerated foods at 35 to 40 degrees Fahrenheit, and frozen foods at 0 degrees Fahrenheit or below.

PART XIII. SANITATION AND HYGIENE.

Article 1. Water Supply.

§ 13.1. The institution complies with the requirements of appropriate regulatory agencies with regard to the potable water supply, control of vermin and pests, emissions and waste disposal systems.

Article 2. Housekeeping.

§ 13.2. A written housekeeping plan for all areas of the facility's physical plant provides for daily housekeeping and regular maintenance by assigning specific duties and responsibilities to staff and inmates.

§ 13.3. Written policy, procedure and practice provide for weekly internal fire, safety and sanitation inspections of the facility by designated administrative staff members. A report of findings and recommended corrective action is submitted to the unit head.

§ 13.4. Toilet, shower, and bathing facilities are operational and sufficient to ensure basic health and basic hygiene.

Article 3. Clothing and Bedding Supplies.

§ 13.5. Written policy, procedure and practice provide for the issue of clean suitable clothing to inmates. Special clothing is provided to inmates assigned to food service, hospital, sanitation, and other special work details. Protective clothing and safety equipment is provided when appropriate.

§ 13.6. Written policy, procedure and practice provide for clean bedding, towels, washcloths, and blankets to all inmates.

§ 13.7. Written policy, procedure and practice shall provide for the weekly laundering of all state issued bedding and state issued clothing.

Article 4. Personal Hygiene.

§ 13.8. Written policy, procedure and practice provide that hair care services that comply with applicable health requirements are available to inmates.

§ 13.9. Written policy, procedure and practice require that articles necessary for maintaining proper personal hygiene are available to all inmates through the unit commissary. Indigent inmates are issued necessary personal hygiene articles.

PART XIV. HEALTH CARE SERVICES.

Article 1. General Policies.

§ 14.1. Written policy, procedure and practice provide that the warden/superintendent in conjunction with the medical authority is responsible for, and ensures that, inmates are provided with health care services and that the institution's medical unit is operated in accordance with the Code of Virginia, constitutional case law, federal law, and the Department of Corrections Office of Health Services policies and procedures.

§ 14.2. Written policy, procedure and practice provide that there is unimpeded access to health care comparable to that available to the general public, and for a system for processing complaints about health care and that these policies are communicated orally and in writing to inmates upon arrival at the facility in language clearly understood by each inmate.

§ 14.3. Written policy, procedure and practice provide that there are provisions for continuity of health care from admission to discharge.

§ 14.4. Written policy, procedure and practice require that, in order to ensure quality assurance, each institution shall have documentation that a medical care evaluation by the Office of Health Services has been performed every other year, and that action plans are written for all areas of deficiency.

§ 14.5. Written policy, procedure and practice govern the use of restraints for medical and psychiatric purposes, identifying the authorization needed, and when, where and how restraints may be used and for how long.

Article 2. Responsible Health Authority.

§ 14.6. Written policy, procedure and practice require that the warden/superintendent appoint a designated medical

authority, who may be a physician, nurse or a health administrator, who is responsible for the health care of the inmates pursuant to a written agreement or contract or job description.

§ 14.7. Written policy, procedure and practice require that all medical, psychiatric, dental and nursing matters involving medical judgment are the sole province of the responsible physician, dentist and nurse, respectively.

§ 14.8. Written policy, procedure and practice provide that the medical authority meets with the warden/superintendent at least quarterly and submits quarterly reports and annual summaries of the health care delivery system and health environment of the institution.

§ 14.9. Written policy, procedure and practice provide that the medical authority submits monthly morbidity and mortality reports and annual summaries to the Office of Health Services.

§ 14.10. Written policy, procedure and practice provide that the medical authority reports to the warden/superintendent immediately any condition that poses a threat to staff and inmate health and safety.

§ 14.11. Written policy, procedure and practice provide that the medical authority reviews each health care policy, procedure and program at least annually, and revises them as needed, each review and revision bearing the date and signature of the reviewer.

Article 3. Facilities and Equipment.

§ 14.12. Written policy, procedure and practice provide that the facility director provides adequate space, equipment, supplies and materials for the delivery of health care as determined by the medical authority in accordance with the level of care provided by the institution.

§ 14.13. Written policy, procedure and practice provide that first aid kits and emergency medical supplies are available in areas determined by the medical authority in conjunction with the warden/superintendent.

§ 14.14. Written policy, procedure and practice require that medical staff are responsible for checking and testing all medical equipment according to manufacturer's recommendations and that the equipment is safe-guarded from inmate access.

§ 14.15. Written policy, procedure and practice provide that institutionally owned ambulances are certified by the Emergency Medical Services, are operated by certified drivers and that a certified Emergency Medical Technician accompany an inmate being transported for medical reasons.

Article 4.

Personnel.

§ 14.16. Written policy, procedure and practice require that all medical personnel who provide health care services to inmates meet state licensure, certification and registration requirements and that verification of current credentials are on file in the facility.

§ 14.17. Written policy, procedure and practice require that the duties and responsibilities of medical personnel are governed by written job descriptions approved by the medical authority, kept on file at the facility, and a copy given to the employee.

§ 14.18. Written policy, procedure and practice provide that all treatment by health care personnel other than physician, dentist, psychologist, optometrist and other independent provider is performed pursuant to written protocols by personnel authorized by law to give such orders.

§ 14.19. Written policy, procedure and practice provide that nurses, nurse practitioners and physician's assistants practice within the limits of applicable laws and regulations.

§ 14.20. Written policy, procedure and practice provide that nonmedical personnel involved in the distribution or administration of nonover-the-counter medications or in providing other medical services are trained according to Department of Corrections, Office of Health Services' procedures.

§ 14.21. Written policy, procedure and practice provide for on-site emergency first aid, CPR and crisis intervention. In addition direct care and custodial staff are trained to recognize signs and symptoms of mental illness and chemical dependency.

§ 14.22. Written policy, procedure and practice provide that inmates are not used for the following duties:

1. Performing direct patient care services,
2. Scheduling health care appointments,
3. Determining access of other inmates to health care services,
4. Handling or having access to surgical instruments, needles, medications and medical records, or
5. Operating diagnostic and therapeutic instruments.

§ 14.23. Written policy, procedure and practice provide that the medical staff has a library of professional books, publications and reference materials on current advances in health care.

§ 14.24. Written policy, procedure and practice provide that health care personnel are provided opportunities for

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orientation, training and continuing education.

Article 5.

Health Screenings and Examinations.

§ 14.25. Written policy, procedure and practice provide that all newly incarcerated inmates undergo medical, dental and mental health screening by health-trained or qualified personnel to include a complete medical history, physical examination, screening laboratory tests, and other tests as ordered by the responsible physician or dentist. All findings are recorded on forms approved by the medical authority and a medical classification code is assigned to each inmate.

§ 14.26. Written policy, procedure and practice provide that all inmates undergoing intrasystem transfers undergo a health screening by health-trained or qualified personnel upon arrival at the institution and no later than one working day thereafter if the facility does not have 24-hour medical coverage.

§ 14.27. Written policy, procedure and practice provide for the identification and management of tuberculosis and other communicable diseases and that these policies and procedures are updated as new information becomes available.

Article 6.

Mental Health Services.

§ 14.28. Written policy, procedure and practice specify the provision of mental health services for inmates. These services include, but are not limited to, those provided by qualified mental health professionals who meet the educational and licensure/certification criteria specified by their respective professional discipline (i.e., psychiatry, psychology, psychiatric nursing, and social work).

§ 14.29. Written policy, procedure and practice provide that inmates have access to mental health services. These services include a system for mental health screening and mental health evaluation of inmates, a system of referral to the services of qualified mental health professionals, a system for transfer or commitment of inmates in need of mental health services beyond the institution resources, and a system for continuity of care and follow-up procedures.

§ 14.30. Written policy, procedure and practice provide for the initial and ongoing assessment and determination of the mental health status and needs of inmates.

§ 14.31. Written policy, procedure and practice provide for identification of special needs inmates. Special needs inmates include, but are not limited to, inmates who are mentally ill, emotionally disturbed or mentally retarded. Programs should be instituted for their appropriate management and treatment.

§ 14.32. Inmates who are acutely mentally ill, severely

emotionally disturbed, or severely mentally retarded are referred for placement in units appropriate for their treatment and management needs.

§ 14.33. There is a written suicide prevention and intervention plan that is reviewed and approved by a qualified mental health or medical professional. Staff with responsibility for inmate supervision are familiar with the plan.

§ 14.34. Written policy and procedure govern mental health case record management, including at a minimum the following areas: the establishment, use, and content of inmate records; confidentiality and right to privacy; placement and preservation of records; and schedule for retiring or destroying inactive records.

§ 14.35. There is a written mental health training program which is provided to employees whose duties require direct contact with special needs inmates. This training program is developed and reviewed by qualified mental health professionals.

Article 7.

Levels of Care.

§ 14.36. Written policy, procedure and practice provide that treatment of an inmate's health problems are not limited by the resources available within the institution and that hospital care is available for acute illness or surgery at a facility outside the institution.

§ 14.37. Written policy, procedure and practice provide that the facility director in conjunction with the medical authority makes available all levels of health care to include self-care, first aid, 24-hour emergency care, 24-hour infirmary care, hospital care, and chronic and convalescent care as required by the inmate's condition.

§ 14.38. Written policy, procedure and practice require that regularly scheduled sick call is conducted by qualified health care personnel and is available to all inmates.

§ 14.39. Written policy, procedure and practice provide for the facility director to contract the services of medical, dental or mental health specialists. All written contracts shall follow procedures approved by the director.

§ 14.40. Written policy, procedure and practice require that inmates in categories of custody other than general population have access to regularly scheduled sick call and emergency medical care. The care is provided on-site or in the medical area depending on security and medical considerations.

§ 14.41. Written policy, procedure and practice prohibit inmates from choosing their own health care provider, and require procedures for documentation of refusal to accept treatment.

Article 8.

Informed Consent And Medical Research.

§ 14.42. Written policy, procedure and practice provide that written informed consent for inmate health care is obtained where required and documented. When health care is rendered against the patient's will, it is in accord with state and federal laws and regulations.

§ 14.43. Written policy, procedure and practice prohibit the use of inmates for medical, pharmaceutical, or cosmetic experiments. This policy does not preclude individual treatment of an inmate based on his need for a specific medical procedure that is not generally available.

Article 9. Specialized Programs.

§ 14.44. Written policy, procedure and practice provide that a program of health education is available to all inmates of an institution.

§ 14.45. Written policy, procedure and practice provide for special treatment programs for inmates requiring close medical supervision as determined by the responsible physician, dentist or qualified mental health professional.

§ 14.46. Written policy, procedure and practice guide the management of chemically dependent inmates under the supervision of a qualified health care practitioner.

§ 14.47. Written policy, procedure and practice provide that medical and dental prostheses are provided when the health of the inmate would otherwise be affected, as determined by the responsible physician or dentist.

§ 14.48. Written policy, procedure and practice provide for a system whereby pregnant inmates may obtain obstetrical medical and social services.

§ 14.49. Written policy, procedure and practice provide that special diets are prescribed as needed and monitored by the responsible physician or dentist.

§ 14.50. Written policy, procedure and practice provide that medical personnel inspect food preparation and dining areas quarterly.

Article 10. Medical Records.

§ 14.51. Written policy, procedure and practice provide that copies of the medical records of all inmates transferred from a jail are transferred to the custody of medical personnel at the receiving institution and that the confidentiality of the records shall be preserved during the transfer.

§ 14.52. Written policy, procedure and practice govern the creation, organization, maintenance, and storage of a complete health record for each inmate, which documents all the health services rendered during the entire period

of incarceration.

§ 14.53. Written policy, procedure and practice uphold the principle of confidentiality of the health record and support the following requirements:

1. The health record is maintained separately from the institutional record.
2. Access to the health record is controlled by the medical authority and is granted only to those who require it under departmental policy.
3. The medical authority shares with the warden/superintendent information regarding security and the inmates medical management, transfer, and ability to participate in programs.

§ 14.54. Written policy, procedure and practice provide that the health record accompanies the inmate to all Department of Corrections facilities whether for intrasystem transfers or for medical consultations and that the confidentiality of the health record is strictly maintained during such transfer.

§ 14.55. Written policy, procedure and practice require that inactive health record files are retained as permanent records in compliance with departmental policies.

Article 11. Pharmacy Services.

§ 14.56. Written policy, procedure and practice require that pharmaceutical services at an institution are in strict compliance with applicable sections of the Code of Virginia, Board of Pharmacy Regulations and department policies.

§ 14.57. Written policy, procedure and practice provide for the proper management of pharmaceuticals and address the following:

1. A formulary specifically developed for the department.
2. Prescription practices, including requirements that
 - a. Psychotropic medications are prescribed only when clinically indicated as one facet of a program of therapy;
 - b. "Stop order" time periods are required for all medications, and
 - c. The prescribing provider reevaluates a prescription prior to its renewal;
3. Procedure for the receipt, storage, dispensing, and administration or distribution of medications;
4. Maximum security storage and periodic inventory of

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all controlled substances, syringes, and needles;

5. Administration of medication by persons properly trained and under the supervision of the health authority and warden/superintendent or designee, and

6. Accountability for administering or distributing medications in a timely manner, according to physician orders.

Article 12.

Serious Illness and Death.

§ 14.58. Written policy, procedure and practice specify and govern the process by which those individuals designated by the inmate are notified in case of serious illness, injury, or death.

§ 14.59. Written policy, procedure and practice specify and govern the actions to be taken in the event of an inmate death.

PART XV. LEGAL AND PROGRAMMATIC RIGHTS OF INMATES.

Article 1.

Access to Courts.

§ 15.1. Written policy, procedure and practice ensure inmate access to federal and state courts, private attorneys or their representatives, a legal library or a court-appointed attorney, and provisions for photocopying of legal documents for inmates.

Article 2.

Programs and Services.

§ 15.2. Written policy, procedure and practice provide that program access, work assignments, and administrative decisions are made without regard to inmates' race, religion, national origin, sex, handicap, or political views. Written policy, procedure and practice protect inmates from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment. Written policy, procedure and practice allow freedom in personal grooming except when a valid interest justifies otherwise.

§ 15.3. Written policy, procedure and practice provide for reasonable access between inmates and the communications media, subject only to the limitations necessary to maintain order and security and protect inmates' privacy. Media requests for interviews and the inmate's consent are in writing.

§ 15.4. Written policy, procedure and practice provide for an inmate grievance procedure that is available to all inmates and includes at least one level of appeal and specific time limits.

PART XVI.

INMATE RULES AND DISCIPLINE.

Article 1.

Rules of Conduct.

§ 16.1. Written rules of inmate conduct specify prohibited acts and penalties which may be imposed for violations. A copy of all rules and disciplinary procedures and penalties are made available to all inmates and employees. Signed acknowledgment of receipt of the rulebook is maintained in the inmate's file. Institutional rules are reviewed annually and revised as necessary.

§ 16.2. Written policy, procedure and practice provide an inmate disciplinary procedure that is available to all inmates and includes:

1. Written reports of alleged offenses,
2. Notification of hearings,
3. The availability of inmate advisors appointed by the institution on a rotating basis,
4. The presence of the reporting officer,
5. Specific time limits,
6. Written findings and reasons for decisions,
7. At least one level of review and appeal; and
7. Provisions for expungement.

§ 16.3. Written policy, procedure and practice provide under what circumstances an individual charged with a rules violation may be removed from the general population pending a disciplinary hearing.

PART XVII. MAIL, TELEPHONE AND VISITING.

Article 1.

Inmate Mail.

§ 17.1. Written policy and procedure govern inmate correspondence; the policies and procedures are reviewed annually and updated as necessary.

§ 17.2. Written policy, procedure and practice provide that indigent inmates, as defined in policy, receive a specified postage allowance to maintain community ties.

§ 17.3. Written policy and procedure govern inmate access to publications.

§ 17.4. Institutional operating procedure ensures that inmate mail shall not be read except where there is a reasonable belief that there is a threat to institutional order and security, and then only in accordance with written policy and procedure.

§ 17.5. Written policy, procedure and practice provide that inmates are permitted to send sealed letters to specified classes of persons and organizations.

§ 17.6. Written policy, procedure and practice require that, excluding Sundays and holidays, incoming and outgoing letters are held for no more than 24 hours and packages are held for no more than 48 hours.

§ 17.7. Written policy, procedure and practice govern inspection for and disposition of contraband.

Article 2.

Telephone and Visiting Privileges.

§ 17.8. Written policy, procedure and practice provide and govern access to telephone privileges for inmates.

§ 17.9. Written policy, procedure and practice provide visiting privileges for inmates and specify the time, screening, frequency, number of visitors, and make provisions for special visits.

PART XVIII.

RECEPTION AND ORIENTATION.

Article 1.

Admission and Orientation.

§ 18.1. Written policies and procedures govern the admission of new inmates and parole violators to the system.

§ 18.2. Written policy, procedure and practice require the preparation of a summary admission report for all new admissions. The report should include the following information:

1. Legal aspects of the case;
2. Summary of criminal history, if any;
3. Social history;
4. Medical, dental, and mental health history;
5. Occupational experience and interests;
6. Educational status and interests;
7. Vocational programming;
8. Recreational preference and needs assessment;
9. Psychological evaluation and staff recommendations; and
10. Preinstitutional assessment information.

§ 18.3. Written policy, procedure and practice provide that new inmates receive written orientation materials. When a

literacy or language problem exists, a staff member assists the inmate in understanding the material. Completion of orientation is documented by a statement signed and dated by the inmate. Inmates transferred from other institutions receive an orientation to the new institution.

§ 18.4. Written policy, procedure and practice provide for screening of inmates double celled in a room or cell.

PART XIX. CLASSIFICATION.

Article 1.

Classification Plan.

§ 19.1. Written policy, procedure and practice provide for an institutional classification program which is consistent with division policy, and which provides for staff and inmate participation in classification reviews.

§ 19.2. Written policy, procedure and practice provide for an institutional classification committee which reviews, evaluates and approves specific inmate program objectives, assignments to special housing and ensures that inmates are afforded due process in classification decisions.

§ 19.3. Written policy, procedure and practice provide for a written inmate classification plan. The plan specifies the objectives of the classification system and methods for achieving them, uniform assessment tools to determine inmate program needs, and it provides a monitoring and evaluation mechanism to determine whether the objectives are being met. The plan is reviewed at least annually and updated as needed.

PART XX. WORK PROGRAMS.

Article 1.

Inmate Work Opportunities.

§ 20.1. Written policy, procedure and practice provide for full-time work or programmatic participation of general population inmates which take into account the inmate's level of risk to staff and the general public, and institutional needs. Policy and procedure provide that work performance is evaluated and the results considered in awarding good conduct allowance and other incentives.

§ 20.2. Employees are trained in inmate work supervision and other areas specifically related to that work assignment prior to independent functioning as work supervisors.

PART XXI. EDUCATIONAL SERVICES.

Article 1.

Space and Scheduling.

§ 21.1. The institution provides space and maintains

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facilities for academic, vocational education and library programs offered by the Department of Correctional Education.

§ 21.2. The warden/superintendent coordinates the scheduling of activities with the principal/supervisor of the educational program.

PART XXII. INMATE RECREATION AND ACTIVITIES.

Article 1. Recreational Programs.

§ 22.1. Written policy, procedure and practice provide for a comprehensive recreational program that includes leisure time activities and outdoor exercise.

§ 22.2. Every inmate (excluding isolation) who is not employed in outdoor work should have the opportunity for at least one hour of exercise three separate days per week in an out-of-door area, weather permitting.

§ 22.3. At major institutions, the recreational program is supervised by a full-time, qualified person, and at field units, a staff member is designated on a part-time basis as recreation officer.

§ 22.4. Adequate facilities and equipment for the planned recreation or exercise activities are available to the inmate population and are maintained in good condition.

§ 22.5. All leisure activities are under staff supervision and those conducted off site are approved by the warden/superintendent or his designee.

PART XXIII. RELIGIOUS PROGRAMS AND SERVICES.

Article 1. Religious Programs.

§ 23.1. Written policy, procedure and practice provide for access to religious programs for all inmates on a voluntary basis. No preference will be given to any activity of one religious denomination, faith, or sect over another.

§ 23.2. Staff chaplains have access to all areas of the institution to attend to the religious needs of the inmates.

§ 23.3. Counseling by chaplains and clergy is confidential.

§ 23.4. Adequate and appropriate space for worship is made available by the institution.

PART XXIV. COUNSELING AND PROGRAM SERVICES.

Article 1. Scope of Services.

§ 24.1. Written policy, procedure and practice provide for a system of core programs at each facility appropriate to the needs of inmates, which may include mental health, life skills, substance abuse, sex offender programs and counseling services.

§ 24.2. Core programs meet program standards and guidelines established by the Department of Corrections.

§ 24.3. Written policy, procedure and practice provide that each inmate is assigned a counselor to ensure supervision and personal contact; staff are available to counsel inmates upon request and provision is made for counseling and crisis intervention services.

§ 24.4. Treatment and professional services are provided by persons qualified by either formal education or training.

§ 24.5. Written policy, procedure and practice provide that persons providing treatment and professional services are certified or licensed as required by law or regulations.

§ 24.6. Written policy, procedure and practice provide that institutional staff identify at least annually the needs of the inmate population to ensure that the necessary programs and services are available, including programs and services to meet the needs of inmates with specific types of problems.

PART XXV. RELEASE PREPARATION AND TEMPORARY RELEASE.

Article 1. Release Preparation.

§ 25.1. Written policy, procedure and practice provide that all inmates have access to a program of release preparation prior to their release to the community.

Article 2. Temporary Release.

§ 25.2. Temporary release programs will include written operational procedures. Written policy, procedure and practice provide for rules of conduct and sanctions, a system of supervision to minimize inmate abuse of program privileges, a complete record keeping system, and efforts to obtain community cooperation and support.

§ 25.3. Written policy, procedure and practice provide that inmates participating in temporary release programs are screened and selected in accordance with written procedures approved by the Board of Corrections.

PART XXVI. CITIZEN INVOLVEMENT AND VOLUNTEERS.

Article 1. Coordination and Selection.

§ 26.1. Written policy and procedure specify the lines of authority, responsibility, and accountability for the institution's citizen involvement and volunteer services program.

§ 26.2. Written policy, procedure and practice provide that each volunteer completes an appropriate, documented orientation or training program prior to assignment.

§ 26.3. Volunteers agree in writing to abide by all facility policies, particularly those relating to the security and confidentiality of information.

§ 26.4. Volunteer services will be provided by volunteers qualified by formal education, training, or experience to perform the services which they are providing.

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 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. Game.

VR 325-02-24. Waterfowl and Waterfowl Blinds.

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

Effective Date: November 18, 1991.

Summary:

Summaries are not provided since in most instances the summary would be as long or longer than the full text.

VR 325-02-24. Waterfowl and Waterfowl Blinds.

§ 16. Shooting hours on Back Bay and adjacent marshes.

Shooting migratory waterfowl on Back Bay, its tributaries and the marshes contiguous thereto is prohibited after 4:20 p.m. during hunting season.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

REGISTRAR'S NOTICE: The amendments to these regulations are excluded from Article 2 of the Administrative Process Act in accordance with (i) § 9-6.14:4.1 C 2 of the Code of Virginia, which excludes regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority; (ii) § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes regulations that consist only of changes in

style or form or corrections of technical errors; and (iii) § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: State Plan for Medical Assistance Relating to Outstationing Eligibility Workers, Advance Directives, and ICF/MR.

VR 460-01-11.1. Procedures to Take Applications.

VR 460-01-18.1. Requirements for Advance Directives.

VR 460-02-2.8100. Requirements for Advance Directives.

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

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

Effective Date: December 18, 1991.

Summary:

The purpose of this action is to amend the Plan for Medical Assistance concerning three subjects. The issue of outstationing eligibility workers was required by the Omnibus Budget Reconciliation Act of 1990 § 4602 (OBRA 90). The issue of advance directives was required by OBRA 90 § 4751. The issue of service coverage for intermediate care facilities for the mentally retarded (ICF/MR) recipients who are medically needy has been prompted by OBRA 87 modifications to § 1902(a)(31) of the Social Security Act which modified the basic definition of the covered service.

The sections of the State Plan which are affected by this final exempt action are as follows: preprinted page 11a (issued by HCFA in Program Memorandum 91-6); new preprinted page 18a and new Attachment 2.8-A; Attachment 3.1-B, page 6, Amount, Duration, and Scope of Services for Medically Needy Groups. These three separate issues will be discussed separately throughout this regulatory summary.

Outstationing Eligibility Workers

Applications for individuals potentially eligible for medical assistance under subsections 1902(a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), or (a)(10)(A)(ii)(IX) of the Social Security Act will be accepted on a simplified form specifically designated for those groups. The state will arrange to accept applications at locations other than departments of social services, including disproportionate share hospitals, and federally qualified health care centers. Applications and initial processing will be performed by staff employed by local departments of social services located on such

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premises or by staff designated by the medical facility for this function. State Department of Social Services staff will train and direct the staff at those sites to assure accurate and timely action. As is currently the practice, all eligibility decisions will be made by department of social services employees.

Advance Directives

The 1990 Patient Self-Determination Act and the Virginia Natural Death Act provided for the creation of living wills and durable powers of attorney for health care for individuals receiving certain kinds of medical and surgical care. Advance directives are defined as written instructions relating to the amount and kind of medical care the individual is to be given if they become incapacitated.

The law specifies the providers which are required to inform individuals about advance directives and when the informing is to take place:

1. Hospitals must provide this information at the time of admission;
2. Nursing facilities must provide this information at the time of admission as a resident;
3. Home care and personal care providers must provide this information in advance of the receipt of services;
4. Hospice programs must provide this information at the time of the initial receipt of services;
5. Health maintenance and health insuring organizations must provide this information at the time of enrollment or reenrollment. If these organizations maintain more than one medical record on an individual, this informing must be documented in all records.

Providers must also develop their own policies and procedures concerning advance directives. Providers are prohibited from rendering care conditionally or otherwise discriminating against an individual based on whether or not the individual has executed an advance directive. These new laws do not prohibit providers from objecting on the basis of conscience to any advance directive and therefore not implementing it.

Intermediate Care Facilities for the Mentally Retarded

In 1982, DMAS discontinued coverage for intermediate care services for the mentally retarded (ICF/MR) for the medically needy. Intermediate care in nursing facilities remained a covered service for the medically needy as indicated on page 6 of Attachment 3.1-B item 15 a.

In the 1987 Omnibus Budget Reconciliation Act, Congress amended Title XIX to eliminate the distinction between skilled and intermediate care services. In order to accomplish this change, several sections of Title XIX were amended to apply to intermediate care facilities for the mentally retarded only. This statutory change makes it necessary to amend page 6 of Attachment 3.1 B item 15 a because it no longer refers to intermediate care in nursing facilities but refers instead to the noncovered ICF/MR services.

In order to conform the State Plan to this revised wording and continue the policy put in place in 1982, it is necessary to amend page 6 of Attachment 3.1-B to correctly reflect that Virginia continues not to cover ICF/MR services.

VR 460-01-11.1. Procedures to Take Applications.

Citation: 1902(a)(55) of the Act

2.1(d). The Medicaid agency has procedures to take applications, assist applicants, and perform initial processing of applications from those low income pregnant women, infants, and children under age 19, described in § 1902(a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), and (a)(10)(A)(ii)(IX) at locations other than those used by the Title IV A program including FQHCs and disproportionate share hospitals. Such application forms do not include the AFDC form except as permitted by HCFA instructions.

VR 460-01-18.1. Requirements for Advance Directives.

Citation: 1902(a)(57), 1902(a)(58), and 1902(w) of the Act

2.8. Requirements for Advance Directives.

An advance directive shall be defined as a written instruction, such as a living will or durable power of attorney for health care, recognized under state law and relating to the provision of medical care when the individual is incapacitated. Each specified provider receiving funds under this Plan must maintain written policies, procedures, and materials concerning advance directives to ensure compliance with the law. The specified providers shall be: hospitals, nursing facilities, providers of home health care or personal care services, hospices, health maintenance organizations and health insuring organizations. Refer to Attachment 2.8 A for further requirements.

VR 460-02-2.8100. Requirements for Advance Directives.

§ 1. All specified providers, receiving funds under this Plan shall maintain written policies, procedures, and materials concerning advance directives to ensure compliance with the law. All providers must:

1. Give written information to all adults as defined by

§ 54.1-2981 et seq. the Code of Virginia of receiving medical care concerning their rights under state law to:

- a. Make decisions concerning their medical care,
- b. Accept or refuse medical or surgical treatment, and
- c. Formulate advance directives, e.g., living wills or durable powers of attorney for health care.

2. Provide written information to all adults on their policies concerning implementation of these rights:

3. Document in the individual's medical record whether he has executed an advance directive:

4. Not condition providing care or otherwise discriminate against an individual based on whether he has executed an advance directive:

5. Ensure compliance with the requirements of state law concerning advance directives; and

6. Provide for educating staff and the community on advance directives. Providers must obtain the approval of the Department of Medical Assistance Services for their required educational campaigns.

§ 2. Providers shall give to each adult patient information concerning advance directives according to the following:

1. Hospitals shall provide such information at the time of the individual's admission as an inpatient.

2. Nursing facilities shall provide such information at the time of the individual's admission as a resident.

3. Providers of home health care or personal care services shall provide such information in advance of the individual's coming under the care of the provider.

4. Hospice programs shall provide such information at the time of the initial receipt of hospice care by the individual.

5. A health maintenance or health insuring organization shall provide such information at the time the individual enrolls or reenrolls with the organization. If such organization maintains more than one record for its enrollees, it must document all medical records.

§ 3. Advance directives for incapacitated individuals.

To the extent that a facility or provider issues materials about policies and procedures to the families or surrogates or other concerned persons of the incapacitated patient in accordance with state law, the facility or provider shall

also provide information concerning advance directives. Such provision of information to families or surrogates shall not relieve the facility or provider of the requirement to provide this information to the patient once he is no longer incapacitated.

§ 4. Previously executed advance directives.

When the patient or a relative, surrogate or other concerned or related individual presents the facility or provider with a copy of the individual's advance directive, the facility or provider must comply with the advance directive including recognition of the power of attorney, to the extent allowed under state law. Absent contrary state law, if no one comes forward with a previously executed advance directive and the patient is incapacitated or otherwise unable to receive information or articulate whether he has executed an advance directive, the facility or provider must note in the individual's medical record that the individual was not able to receive such information and was unable to communicate whether an advance directive existed.

§ 5. Conscientious objection by providers.

Nothing in this section shall be construed to prohibit the application of a state law which allows for an objection on the basis of conscience for any health care provider or any agent of such provider which as a matter of conscience cannot implement an advance directive.

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

The following ambulatory services are provided.

Physicians Services
Outpatient Hospital Services
Clinic Services
Laboratory and X-Ray Services
EPSDT Services
Family Planning Services
Optometrist Services
Home Health Services
Dental Services for those under age 21
Physical Therapy and Related Services
Prescribed Drugs
Eyeglass Services
Nurse Midwives
Outpatient Rehabilitation
Extended Services to Pregnant Women

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

Provided: No limitations With limitations*

2.a. Outpatient hospital services.

Provided: No limitations With limitations*

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

Provided: No limitations With limitations*

c. 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).

Provided: No limitations With limitations*

3. Other laboratory and x-ray services.

Provided: No limitations With limitations*

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

Provided: No limitations With limitations*

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

Provided: No limitations With limitations*

c. Family planning services and supplies for individuals of childbearing age.

Provided: No limitations With limitations*

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

Provided: No limitations With limitations*

*Description provided on attachment.

6. Medical care and any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law.

a. Podiatrists' Services

Provided: No limitations With limitations*

b. Optometrists' Services

Provided: No limitations With limitations*

c. Chiropractors' Services

Provided: No limitations With limitations*

d. Other Practitioners' Services

Provided: No limitations With limitations*

7. Home Health Services

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

Provided: No limitations With limitations*

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

Provided: No limitations With limitations*

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

Provided No limitations With limitations*

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

Provided: No limitations With limitations*

* Description provided on attachment. See Supplement 1 to Attachments 3.1A and 3.1B.

8. Private duty nursing services.

Provided No limitations With limitations*

9. Clinic services.

Provided: No limitations With limitations*

10. Dental services.

Provided: No limitations With limitations*

11. Physical therapy and related services.

a. Physical therapy.

Provided: No limitations With limitations*

b. Occupational therapy.

Provided: No limitations With limitations*

c. Services for individuals with speech, hearing, and language disorders provided by or under supervision of a speech pathologist or audiologist.

Provided: No limitations With limitations*

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

a. Prescribed drugs.

- Provided: No limitations With limitations*
- b. Dentures.
- Provided: No limitations With limitations*
- * Description provided on attachment.
- c. Prosthetic devices.
- Provided: No limitations With limitations*
- d. Eyeglasses.
- Provided: No limitations With limitations*
13. Other diagnostic, screening, preventive, and rehabilitative services, i.e., other than those provided elsewhere in this plan.
- a. Diagnostic services.
- Provided: No limitations With limitations*
- b. Screening services.
- Provided: No limitations With limitations*
- c. Preventive services.
- Provided: No limitations With limitations*
- d. Rehabilitative services.
- Provided: No limitations With limitations*
14. Services for individuals age 65 or older in institutions for mental diseases.
- a. Inpatient hospital services.
- Provided: No limitations With limitations*
- b. Skilled nursing facility services.
- Provided: No limitations With limitations*
- c. Intermediate care facility services.
- Provided: No limitations With limitations*
- 15.a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined in accordance with section 1902(a)(31)(a) of the Act, to be in need of such care.
- Provided: No limitations With limitations*
- b. Including such services in a public institution (or

- distinct part thereof) for the mentally retarded or persons with related conditions.
- Provided: No limitations With limitations*
16. Inpatient psychiatric facility services for individuals under 22 years of age.
- Provided: No limitations With limitations*
17. Nurse-midwife services.
- Provided: No limitations With limitations*
18. Hospice care (in accordance with section 1905(o) of the Act).
- Provided: No limitations With limitations*
- * Description provided on attachment.
19. Case management services as defined in, and to the group specified in, Supplement 2 to ATTACHMENT 3.1-A (in accordance with § 1905(a)(19) or § 1915(g) of the Act).
- Provided: With limitations
- Not provided
20. Extended services for pregnant women.
- a. Pregnancy-related and postpartum services for 60 days after the pregnancy ends.
- Provided No limitations With limitations*
- b. Services for any other medical conditions that may complicate pregnancy.
- Provided No limitations With limitations*
- Not provided
21. Ambulatory prenatal care for pregnant women furnished during a presumptive eligibility period by a qualified provider (in accordance with § 1920 of the Act).
- Provided No limitations With limitations*
- Not provided
-
- + List of major categories of services (e.g., inpatient hospital, physician, etc.) that are available as pregnancy-related services, and description of additional coverage of these services, if applicable, provided on attachment.

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22. Respiratory care services (in accordance with section 1902(a)(9)(A) through (C) of the Act).

- Provided No limitations With limitations*
 Not provided

23. Any other medical care and any other type of remedial care recognized under State law, specified by the Secretary.

a. Transportation.

- Provided No limitations With limitations*

b. Services of Christian Science nurses.

- Provided No limitations With limitations*

c. Care and services provided in Christian Science sanitorial.

- Provided No limitations With limitations*

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

- Provided No limitations With limitations*

e. Emergency hospital services.

- Provided No limitations With limitations*

f. Personal care services in recipients's home, prescribed in accordance with a plan of treatment and furnished by a qualified person under supervision of a registered nurse.

- Provided No limitations With limitations*



COMMONWEALTH of VIRGINIA

JOAN W SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

November 6, 1991

Mr. Bruce Kozlowski, Commissioner
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, Virginia 23219

RE: VR 460-01-11.1; VR 460-01-18.1; Technical Amendment: Out-
VR 460-02-2.8100; and standing Eligibility Workers,
VR 460-02-3.1200 Advance Directives, ICF/MR.

Dear Mr. Kozlowski:

This will acknowledge receipt of the above-referenced regulations from the Department of Medical Assistance Services.

As required by § 9-6.14:4.1 C.4.(c). of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:jbc

MEDICAID APPLICATION/REDETERMINATION FOR MEDICALLY INDIGENT FAMILIES & CHILDREN

Cate Number: _____
 Worker # _____

Please answer all questions as completely and as accurately as possible. If you do not understand a question, the caseworker you speak with will help you. If you do not have enough space for your answer, attach another sheet of paper to this application.

Social Security Number	Last Name	First Name	MI	Birth Date	Race	Sex
Street Address	City	State	Zip Code			
Mailing Address (if different)	City	State	Zip Code			
Medicare Number	Place of Birth/Citizenship	Married Status	Telephone Number	Where you can be reached		

ARE YOU APPLICING AS A PREGNANT WOMAN? YES NO IF YES, ESTIMATE MONTH PREGNANCY BEGAN: _____

ESTIMATED DELIVERY DATE: _____

Please list everyone in your household and complete each space by the name:

Social Security Number	Last Name	First Name	MI	Relationship	Age	Sex	U.S. Citizen? (Yes/No)

LIST ALL INCOME RECEIVED BY THE HOUSEHOLD, INCLUDING EARNINGS FROM INCOME, SOCIAL SECURITY BENEFITS, SUPPORT, RESTRICTION PENSIONS, UNEMPLOYMENT BENEFITS, STOCK PAT, STUDENT LOANS, PROPERTY OR RENTAL.

Source of Income	Amount Before Any Deductions	How Often Received	Name of Person(s) Benefiting

ABSENT PARENT INFORMATION

1. CHILD'S NAME	ABSENT PARENT'S NAME	TELEPHONE			
2.					
3.					
14. LEGAL PARENT?	YES <input type="checkbox"/> NO <input type="checkbox"/>	SUPPORT PETITION FILED?	YES <input type="checkbox"/> NO <input type="checkbox"/>	PLACE	DATE
16. LEGAL PARENT?	YES <input type="checkbox"/> NO <input type="checkbox"/>	SUPPORT PETITION FILED?	YES <input type="checkbox"/> NO <input type="checkbox"/>		
18. LEGAL PARENT?	YES <input type="checkbox"/> NO <input type="checkbox"/>	SUPPORT PETITION FILED?	YES <input type="checkbox"/> NO <input type="checkbox"/>		

012-01-0621 (12/89)

THIRD PARTY LIABILITY INFORMATION

NAME AND ADDRESS OF HEALTH INSURANCE COMPANY OR OTHER THIRD PARTY COVERAGE	POLICY/INSURANCE NUMBER/IDENTIFY TO NUMBER	COVERAGE BEGIN DATE	TYPE OF POLICY	RECEIPT NUMBER
1.				
2.				
3.				

INDIA MEDICAL CENTER	PERSON AND ADDRESS THE POLICY	REL. CATEGORY	HOSPITAL BENEFIT	RECEIPTS
14.			HOSPITAL BENEFIT	HOSPITAL BENEFIT
24.			HOSPITAL BENEFIT	HOSPITAL BENEFIT
34.			HOSPITAL BENEFIT	HOSPITAL BENEFIT

HAVE YOU, OR ANYONE FOR WHOM YOU ARE APPLYING, BEEN IN THE HOSPITAL OR THE EMERGENCY ROOM, BEEN TO A DOCTOR'S OFFICE OR CLINIC, RECEIVED A PRESCRIPTION DRUG OR OTHER MEDICAL SERVICE IN THE PAST THREE MONTHS? YES NO

HAVE THERE BEEN ANY CHANGES IN YOUR LIVING ARRANGEMENTS, MARITAL STATUS, RESOURCES, OR INCOME IN THE PAST THREE MONTHS? YES NO IF YES, DESCRIBE THE CHANGES: _____

I REQUEST ASSISTANCE AND CERTIFY THAT THE ABOVE STATEMENTS AND ATTACHMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

I AGREE TO LET THE DEPARTMENT OF SOCIAL SERVICES KNOW IMMEDIATELY IF I HAVE BEEN DISCHARGED FROM MY HOME OR MY HOME IN MY WARDENSHIP, THAT I HAVE THE RIGHT TO FILE A COMPLAINT, IF I FEEL I HAVE BEEN DISCRIMINATED AGAINST BECAUSE OF RACE, COLOR, NATIONAL ORIGIN, SEX, AGE, HANDICAP, OR RELIGIOUS BELIEF.

I UNDERSTAND THAT IF I GIVE FALSE INFORMATION, WITHHOLD INFORMATION, OR FAIL TO REPORT CHANGES PROMPTLY ON OR OUTSIDE, I MAY BE DENIED THE LAW AND COULD BE PROSECUTED FOR PERJURY, LARCENY AND/OR WELFARE FRAUD.

I UNDERSTAND THAT IF I COMPLETE, OR ASSISTED IN COMPLETING THIS FORM FOR THE APPLICANT/RECIPIENT AND/OR ABSTAINED THE APPLICANT/RECIPIENT TO OBTAIN ASSISTANCE FOR WHICH SERVICE IS NOT ELIGIBLE, THAT I MAY BE DENIED THE LAW AND COULD BE PROSECUTED.

BY SIGNING THIS APPLICATION, I AGREE TO ASSIGN MY RIGHTS TO SOCIAL SERVICES AND THE DEPARTMENT OF MEDICAL ASSISTANCE SERVICES TO OBTAIN AND MAINTAIN MEDICAL ASSISTANCE FOR MYSELF AND MY FAMILY. I ALSO UNDERSTAND THAT I WILL BE DENIED ASSISTANCE UNTIL I AM ELIGIBLE TO RECEIVE MEDICAL ASSISTANCE FOR ASSISTANCE. I ALSO UNDERSTAND THAT I WILL BE DENIED ASSISTANCE UNTIL I AM ELIGIBLE TO RECEIVE MEDICAL ASSISTANCE FOR ASSISTANCE. I ALSO UNDERSTAND THAT I WILL BE DENIED ASSISTANCE UNTIL I AM ELIGIBLE TO RECEIVE MEDICAL ASSISTANCE FOR ASSISTANCE. I ALSO UNDERSTAND THAT I WILL BE DENIED ASSISTANCE UNTIL I AM ELIGIBLE TO RECEIVE MEDICAL ASSISTANCE FOR ASSISTANCE.

BY SIGNING THIS APPLICATION, I AGREE TO ASSIGN MY RIGHTS TO MEDICAL SUPPORT AND OTHER THIRD-PARTY PAYMENT, AND/OR THE RIGHTS OF COVERAGE UNDER MEDICAID. I UNDERSTAND THAT ALL PAYMENTS OR REIMBURSEMENTS I RECEIVE FOR DIAGNOSIS OR TREATMENT OF ANY INJURY, DISEASE OR DISABILITY OR FOR MEDICAL SUPPORT, SHALL BE DEPOSITED INTO THE DEPARTMENT OF MEDICAL ASSISTANCE SERVICES. I UNDERSTAND THAT THIS ASSIGNMENT CONTINUES UNTIL SUCH TIME AS I AM NO LONGER ELIGIBLE FOR MEDICAID. I UNDERSTAND THAT MY APPEAL TO ASSIGN MY RIGHTS WILL RESULT IN MY INELIGIBILITY.

I HEREBY REQUEST MEDICAL ASSISTANCE/CONTINUED MEDICAL ASSISTANCE	DATE	SIGNATURE (PRINT NAME)	DATE
WITNESS OF NAME	DATE		

THIS APPLICATION/DECLARATION COMPLETED ON BEHALF OF RECIPIENT BY	DATE	TELEPHONE NUMBER
SIGNATURE		

ADDRESS (STREET, CITY, STATE, ZIP)	
DEFICIT	RELATIVE <input type="checkbox"/> GUARDIAN <input type="checkbox"/> FRIEND <input type="checkbox"/>

MEDICAID APPLICATION/REDETERMINATION FOR MEDICALLY INDIGENT FAMILIES & CHILDREN

Case Number _____
Marker # _____

Please answer all questions as completely and as accurately as possible. If you do not understand a question, the caseworker you speak with will help you. If you do not have enough space for your answer, attach another sheet of paper to this application.

Social Security Number	Last Name	First Name	MI	Birth Date	Race	Sex
Street Address	City	State	Zip Code			
Mailing Address (if different)	City	State	Zip Code			
Medicaid Number	Place of Birth/Citizenship	Marital Status	Telephone Number Where You Can Be Reached			

ARE YOU APPLYING AS A PREGNANT WOMAN? YES NO IF YES, ESTIMATE MONTH PREGNANCY BEGAN: _____
ESTIMATED DELIVERY DATE: _____

Please list everyone in your household and complete each space by the date:

Social Security Number	Last Name	First Name	MI	Relationship	Sex	U.S. Citizen (Year-Born)

LIST ALL INCOME RECEIVED BY THE HOUSEHOLD. INCLUDE EARNINGS FROM INCOME, SOCIAL SECURITY BENEFITS, SUPPORT, RETIREMENT PENSIONS, UNEMPLOYMENT BENEFITS, STUDENT LOANS, GRANTS OR AID, SCHOLARSHIPS, ETC.

Source of Income	Amount Before Any Deductions	How Often Received	How Often Reported	Month of Personal Reporting

ABSENT PARENT INFORMATION

CHILD'S NAME	ABSENT PARENT'S NAME	ABSENT PARENT'S ADDRESS	TELEPHONE
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
14. LEGAL PARENT?	YES <input type="checkbox"/> NO <input type="checkbox"/>	SUPPORT PETITION FILED?	YES <input type="checkbox"/> NO <input type="checkbox"/>
15. LEGAL PARENT?	YES <input type="checkbox"/> NO <input type="checkbox"/>	SUPPORT PETITION FILED?	YES <input type="checkbox"/> NO <input type="checkbox"/>
16. LEGAL PARENT?	YES <input type="checkbox"/> NO <input type="checkbox"/>	SUPPORT PETITION FILED?	YES <input type="checkbox"/> NO <input type="checkbox"/>

012-01 001 (4/87)

THIRD PARTY LIABILITY INFORMATION

NAME AND ADDRESS OF HEALTH INSURANCE COMPANY OR OTHER HEALTH COVERAGE	POLICY/INSURANCE/COMPANY/ MILITARY ID NUMBER	COVERAGE BEGIN DATE	TYPE OF POLICY	PRIORITY GROUP
1. _____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____

WHICH COVERAGE INDIVIDUALS REQUEST THE POLICY?	REASON FOR REQUEST	REASON FOR DENIAL	OTHER (SPECIFY)
14. _____	_____	_____	_____
15. _____	_____	_____	_____
16. _____	_____	_____	_____

HAVE YOU OR ANYONE FOR WHOM YOU ARE APPLYING BEEN IN THE HOSPITAL OR THE EMERGENCY ROOM, BEEN TO A DOCTOR'S OFFICE OR CLINIC, RECEIVED A PRESCRIPTION DRUG OR OTHER MEDICAL SERVICE IN THE PAST THREE MONTHS? YES NO
IF YES, DESCRIBE THE CHANGES: _____
HAVE THERE BEEN ANY CHANGES IN YOUR LIVING ARRANGEMENTS, MARITAL STATUS, RESOURCES, OR INCOME IN THE PAST THREE MONTHS? YES NO

I REQUEST ASSISTANCE AND CERTIFY THAT THE ABOVE STATEMENTS AND ATTACHMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.
I AGREE TO LET THE DEPARTMENT OF SOCIAL SERVICES KNOW IMMEDIATELY ON THE NEXT WORKING DAY OF ANY CHANGES THAT OCCUR IN MY SITUATION.

I UNDERSTAND THAT IF I HAVE THE RIGHT TO FILE A COMPLAINT IF I FEEL I HAVE BEEN DISCRIMINATED AGAINST BECAUSE OF RACE, COLOR, NATIONAL ORIGIN, SEX, AGE, HANDICAP, OR RELIGIOUS BELIEF.

I UNDERSTAND THAT IF I GIVE FALSE INFORMATION, WITHHOLD INFORMATION, OR FAIL TO REPORT CHANGES PROMPTLY ON OR PURPOSE, I MAY BE DENYING THE LAW AND COULD BE PROSECUTED FOR FRAUD, LARCENY AND/OR WELFARE FRAUD.

I UNDERSTAND THAT IF I COMPLETE, OR ASSISTED IN COMPLETING THIS FORM FOR THE APPLICANT/PATIENT AND/OR ASSISTED THE APPLICANT/PATIENT TO OBTAIN ASSISTANCE FOR WHICH REFUND IS NOT ELIGIBLE, THAT I MAY BE BREAKING THE LAW AND COULD BE PROSECUTED.

BY SIGNATURE BELOW I AUTHORIZE THE DEPARTMENT OF SOCIAL SERVICES AND THE DEPARTMENT OF MEDICAL ASSISTANCE TO OBTAIN ALL INFORMATION NECESSARY TO ESTABLISH MY ELIGIBILITY FOR ASSISTANCE. I ALSO UNDERSTAND THAT REFUSAL TO COOPERATE WITH THE ABOVE MENTIONED REQUIREMENTS WILL RESULT IN DENIAL OF ASSISTANCE STOPPED UNTIL I COOPERATE WITH THE SYSTEM. BY SIGNATURE AUTHORITIES RELEASE TO THE DEPARTMENT OF MEDICAL ASSISTANCE ALL INFORMATION I PROVIDE IN THIS APPLICATION REGARDING MY ELIGIBILITY FOR MEDICAID ASSISTANCE.

BY SIGNING THIS APPLICATION, I AGREE TO SIGNIFY TO MEDICAL ASSISTANCE AND SOCIAL SECURITY THAT I HAVE THE BEST INTEREST OF ANY INDIVIDUAL FOR WHOM I HAVE THE LEGAL RIGHT TO APPLY TO THE DEPARTMENT OF MEDICAL ASSISTANCE AND SOCIAL SECURITY IN CONNECTION WITH MY APPLICATION FOR MEDICAL ASSISTANCE. I ALSO UNDERSTAND THAT REFUSAL TO COOPERATE WITH THE ABOVE MENTIONED REQUIREMENTS WILL RESULT IN DENIAL OF ASSISTANCE STOPPED UNTIL I COOPERATE WITH THE SYSTEM. BY SIGNATURE AUTHORITIES RELEASE TO THE DEPARTMENT OF MEDICAL ASSISTANCE ALL INFORMATION I PROVIDE IN THIS APPLICATION REGARDING MY ELIGIBILITY FOR MEDICAID ASSISTANCE.

I HEREBY REQUEST MEDICAL ASSISTANCE/COMBINED MEDICAL ASSISTANCE
SIGNATURE OF PAIR _____ DATE _____
WITNESS OF PAIR _____ DATE _____

THIS APPLICATION/DECLARATION COMPLETED ON BEHALF OF RECEIPT BY _____ DATE _____ TELEPHONE NUMBER _____
SIGNATURE _____

ADDRESS (STREET, CITY, STATE, ZIP) _____
RELATIVE GUARDIAN FRIEND

* * * * *

Title of Regulation: State Plan for Medical Assistance Relating to Case Management for Mental Retardation Waiver Clients.

VR 460-03-3.1102. Case Management Services.

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

Effective Date: January 1, 1992.

Summary:

The purpose of this proposal is to promulgate permanent regulations providing for the coverage of case management services for mentally retarded persons to supersede the current emergency regulations.

The 1990 Appropriations Act (Item 466) directed the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) and the Department of Medical Assistance Services (DMAS) to provide Medicaid coverage for community mental health, mental retardation, and substance abuse services in Virginia. As a part of this initiative, DMAS was instructed to seek a waiver to offer home and community-based services to deinstitutionalize and divert mentally retarded individuals from more costly institutional care into community care. This action was designed to enable the Commonwealth to realize cost savings and provide services in less restrictive environments which promote more individual growth and development.

Virginia has received approval from the Health Care Financing Administration (HCFA) for two waivers under § 1915(c) of the Social Security Act. Waiver I is for services to individuals in institutions for the mentally retarded or who are at risk of institutionalization and can be cared for in the community. Waiver II is targeted to individuals who currently reside in nursing homes but who require active treatment for mental retardation and related conditions.

One of the services included in each of the waiver requests was targeted case management for clients approved to participate in one of the waivers. During the official review of the waiver proposals, HCFA staff requested that the coverage of case management services be removed from the waiver proposals and submitted instead as a State Plan optional service. The current emergency regulation satisfies the direction given to the agency by the General Assembly that case management services be provided to participants in the two community-based waiver programs for the mentally retarded.

VR 460-03-3.1102. Case Management Services.

§ 1. High risk pregnant women and children.

A. Target group.

To reimburse case management services for high-risk Medicaid eligible pregnant women and children up to age two.

B. Areas of state in which services will be provided:

Entire state.

Only in the following geographic areas (authority of § 1915(g)(1) of the Act is invoked to provide services less than statewide.

C. Comparability of services.

Services are provided in accordance with § 1902(a)(10)(B) of the Act.

Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to provide services without regard to the requirements of § 1902(a)(10)(B) of the Act.

D. Definition of services.

The case management services will provide maternal and child health coordination to minimize fragmentation of care, reduce barriers, and link clients with appropriate services to ensure comprehensive, continuous health care. The Maternity Care Coordinator will provide:

1. Assessment. Determining clients' service needs, which include psychosocial, nutrition, medical, and educational factors.

2. Service planning. Developing an individualized description of what services and resources are needed to meet the service needs of the client and help access those resources.

3. Coordination and referral. Assisting the client in arranging for appropriate services and ensuring continuity of care.

4. Follow-up and monitoring. Assessing ongoing progress and ensuring services are delivered.

5. Education and counseling. Guiding the client and developing a supportive relationship that promotes the service plan.

E. Qualifications of providers.

Any duly enrolled provider which the department determines is qualified who has signed an agreement with Department of Medical Assistance Services to deliver Maternity Care Coordination services. Qualified service providers will provide case management regardless of

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their capacity to provide any other services under the Plan. A Maternity Care Coordinator is the Registered Nurse or Social Worker employed by a qualified service provider who provides care coordination services to eligible clients. The RN must be licensed in Virginia and should have a minimum of one year of experience in community health nursing and experience in working with pregnant women. The Social Worker (MSW, BSW) must have a minimum of one year of experience in health and human services, and have experience in working with pregnant women and their families. The Maternity Care Coordinator assists clients in accessing the health care and social service system in order that outcomes which contribute to physical and emotional health and wellness can be obtained.

§ 2. (Reserved.)

§ 3. (Reserved.)

§ 4. (Reserved.)

§ 5. *Individuals with mental retardation and related conditions who are participants in the home and community-based care waivers for persons with mental retardation and related conditions.*

A. Target group.

Medicaid eligible individuals with mental retardation and related conditions, or a child under six years of age who is at developmental risk, who have been determined to be eligible for home and community based care waiver services for persons with mental retardation and related conditions. An active client for waiver case management shall mean an individual who receives a minimum of one face-to-face contact every two months and monthly on-going case management interactions. There shall be no maximum service limits for case management services. Case management services must be preauthorized by DMAS after review and recommendation by the care coordinator employed by DMHMRSAS and verification of waiver eligibility.

B. Areas of state in which services will be provided:

Entire State

Only in the following geographic areas (authority of § 1915(g)(1) of the Act is invoked to provide services less than statewide.

C. Comparability of services.

Services are provided in accordance with § 1902(a)(10)(B) of the Act.

Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to provide services without regard to the requirements of § 1902(a)(10)(B) of the Act.

D. Definition of services.

Mental retardation [case management] services to be provided include:

1. *[Assessing needs Assessment] and planning services [determining the appropriateness of, and need for, mental retardation services, evaluating individual needs, reevaluating individual needs periodically, and developing consumer service plan to include developing a Consumer Service Plan] (does not include performing medical and psychiatric assessment but does include referral for such assessment);*

2. *Linking the individual to services and supports specified in the consumer service plan;*

3. *Assisting the individual directly for the purpose of locating, developing or obtaining needed services and resources [; including crisis services] ;*

4. *Coordinating services with other agencies and providers involved with the individual [(e.g., Departments of Social Services, Rehabilitative Services and Health, school division, Area Agency on Aging, Social Security Administration)] ;*

5. *Enhancing community integration by contacting other entities to arrange community access and involvement, including opportunities to learn community living skills, and use vocational, civic and recreational services; [and]*

6. *Making collateral contacts with the individual's significant others to promote implementation of the service plan and community adjustment [;]*

[7. *Following-up and monitoring to assess ongoing progress and ensuring services are delivered: and*

8. *Education and counseling which guide the client and develop a supportive relationship that promotes the service plan.]*

E. Qualifications of providers.

1. *Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to limit case management providers for individuals with mental retardation and serious/chronic mental illness to the community services boards only to enable them to provide services to [seriously seriously] /chronically mentally ill or mentally retarded individuals without regard to the requirements of § 1902(a)(10)(B) of the Act.*

2. *To qualify as a provider of services through DMAS for rehabilitative mental retardation case management, the provider of the services must meet certain criteria. These criteria shall be:*

a. The provider must guarantee that clients have access to emergency services on a 24-hour basis;

b. The provider must demonstrate the ability to serve individuals in need of comprehensive services regardless of the individuals' ability to pay or eligibility for Medicaid reimbursement;

c. The provider must have the administrative and financial management capacity to meet state and federal requirements;

d. The provider must have the ability to document and maintain individual case records in accordance with state and federal requirements;

e. The services shall be in accordance with the Virginia Comprehensive State Plan for Mental Health, Mental Retardation and Substance Abuse Services; and

f. The provider must be certified as a mental retardation case management agency by the DMHMRSAS.

3. Providers may bill for Medicaid mental retardation case management only when the services are provided by qualified mental retardation case managers. The case manager must possess a combination of mental retardation work experience or relevant education which indicates that the individual possesses the following knowledge, skills, and abilities [at the entry level] . [~~The incumbent must have at entry level the following knowledge, skills and abilities.~~] These must be documented or observable in the application form or supporting documentation or in the interview (with appropriate documentation).

a. Knowledge of:

(1) The definition, causes and program philosophy of mental retardation,

[(2) Treatment modalities and intervention techniques, such as behavior management, independent living skills training, supportive counseling, family education, crisis intervention, discharge planning and service coordination,]

[~~(2)~~ (3)] Different types of assessments and their uses in program planning,

[~~(3)~~ (4)] Consumers' rights,

[~~(4)~~ (5)] Local service delivery systems, including support services,

[~~(5)~~ (6)] Types of mental retardation programs and services.

[~~(6)~~ (7)] Effective oral, written and interpersonal

communication principles and techniques,

[~~(7)~~ (8)] General principles of record documentation, and

[~~(8)~~ (9)] The service planning process and the major components of a service plan.

b. Skills in:

[(1) Interviewing,]

[~~(1)~~ (2)] Negotiating with consumers and service providers,

[~~(2)~~ (3)] Observing, recording and reporting behaviors,

[~~(3)~~ (4)] Identifying and documenting a consumer's needs for resources, services and other assistance,

[~~(4)~~ (5)] Identifying services within the established service system to meet the consumer's needs,

[~~(5)~~ (6)] Coordinating the provision of services by diverse public and private providers, [and]

[~~(6)~~ (7)] Analyzing and planning for the service needs of mentally retarded persons [, ,]

[(8) Formulating, writing and implementing individualized consumer service plans to promote goal attainment for individuals with mental retardation, and

(9) Using assessment tools.]

c. Abilities to:

(1) Demonstrate a positive regard for consumers and their families (e.g., treating consumers as individuals, allowing risk taking, avoiding stereotypes of mentally retarded people, respecting consumers' and families' privacy, believing consumers can grow),

(2) Be persistent and remain objective,

(3) Work as team member, maintaining effective interagency and intraagency working relationships,

(4) Work independently, performing position duties under general supervision, [and]

(5) Communicate effectively, verbally and in writing [, and]

[(6) Establish and maintain ongoing supportive relationships.]

F. The state assures that the provision of case

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management services will not restrict an individual's free choice of providers in violation of § 1902(a)(23) of the Act.

1. Eligible recipients will have free choice of the providers of case management services.

2. Eligible recipients will have free choice of the providers of other medical care under the plan.

G. Payment for case management services under the plan [does shall] not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

BOARD OF MEDICINE

Title of Regulation: 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.

Statutory Authority: §§ 54.1-2400, 54.1-2957.1, 54.1-2957.2 and 54.1-2957.3 of the Code of Virginia.

Effective Date: December 18, 1991.

Summary:

These regulations are to enact permanent regulations to supersede the emergency regulations. These regulations provide for alternate educational pathways for doctors of optometry to be eligible to sit for the certification examination. The strength of certain therapeutic pharmaceutical agents is also corrected.

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.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Approved school" means those optometric and medical schools, colleges, departments of universities or colleges or schools of optometry or medicine currently accredited by the Council on Postsecondary Accreditation or by the United States Department of Education.

"Board" means the Virginia Board of Medicine.

"Certification" means the Virginia Board of Medicine

certifying an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa and administer certain therapeutic pharmaceutical agents.

"Certified optometrist" means an optometrist who holds a current license to practice optometry in the Commonwealth of Virginia, is certified to use diagnostic pharmaceutical agents by the Virginia Board of Optometry, and has met all of the requirements established by the Virginia Board of Medicine to treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

"Examination" means an examination approved by the Board of Medicine for certification of an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

"Invasive modality" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive modalities include surgery, lasers, ionizing radiation, therapeutic ultrasound, medication administered by injection, and the removal of foreign bodies from within the tissues of the eye. For purposes of these regulations, the administration of a topical agent specified in § 4.3 of these regulations is not considered an invasive modality.

"Postgraduate clinical training" means a postgraduate program approved by the board to be eligible for certification.

"Protocol" means a prescribed course of action developed by the certified optometrist which defines the procedures for responding to any patient's adverse reaction or emergency.

§ 1.2. Public Participation Guidelines.

Separate Board of Medicine regulations, VR 465-01-01, entitled Public Participation Guidelines, which provide for involvement of the public in the development of all regulations of the Virginia Board of Medicine, are incorporated by reference in these regulations.

PART II.

APPLICATION FOR CERTIFICATION EXAMINATION.

§ 2.1. Application for certification by examination.

An applicant for certification by examination shall be made on forms provided by the board. Such application shall include the following information and documents:

1. A complete application form;
2. The fee specified in § 7.1 of these regulations to be paid at the time of filing the application;

3. Additional documents required to be filed with the application are:

a. A letter from the Virginia Board of Optometry certifying that:

(1) The applicant holds a current license to practice optometry in Virginia, and

(2) The applicant is certified to use diagnostic pharmaceutical agents;

b. Documented evidence that the applicant has been certified to administer cardiopulmonary resuscitation (CPR);

c. Documented evidence of satisfactory completion of the postgraduate *optometric* training approved and prescribed by the board or *documentation of graduate optometric training equivalent to the postgraduate optometric training required by the board*;

d. Verification of licensure status in other states from the Board of Examiners in Optometry or appropriate regulatory board or agency.

PART III. EXAMINATION.

§ 3.1. Examination for certification.

The following general provisions shall apply to optometrists who apply to take the board's examination for certification to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

A. The certification examination for an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be in two parts, pharmaceutical and clinical, and shall be taken as a unit.

B. A candidate for certification by the board who fails the examination following three attempts shall take additional postgraduate training approved by the board to be eligible to take further examinations, as required in § 6.1.

PART IV. SCOPE OF PRACTICE FOR AN OPTOMETRIST CERTIFIED TO USE THERAPEUTIC DRUGS.

§ 4.1. Certification.

An optometrist, currently licensed by the Board of Optometry, who has completed didactic and clinical training to ensure an appropriate standard of medical care for the patient and has met all other requirements and

has passed an examination administered by the board, shall be certified to administer and prescribe certain therapeutic pharmaceutical agents in the treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa.

§ 4.2. Diseases and conditions which may be treated by an optometrist.

Diseases and conditions which may be treated by an optometrist certified by the board are hordeolum, conjunctivitis, blepharitis, chalazion, dry eye, superficial conjunctival foreign bodies and noninfectious superficial epithelial damage secondary to contact lens wear provided that no corneal opacity is present.

§ 4.3. Therapeutic pharmaceutical agents.

Therapeutic pharmaceutical agents which a certified optometrist may administer and prescribe are all topical and are as follows:

1. Tetracycline
2. Erythromycin
3. Bacitracin
4. Polymyxin B/Bacitracin
5. Chlorotetracycline
6. Sodium Sulfacetamide - 10%
7. Sodium Sulfacetamide - 15%
8. Sulfisoxazole - 4.0%
9. Sulfacetamide - 15% / Phenylephrine - 0.0125%
0.125%
10. Cromolyn Sodium - 4.0%
11. Naphazoline HCl - 0.1%
12. Phenylephrine HCl - 0.125% / Pheniramine
Maleate - 0.5%
13. Phenylephrine HCl - 0.12% / Pyrilamine Maleate -
0.1% / Antipyrine - 0.1%
14. Naphazoline HCl - 0.025% / Pheniramine Maleate
- 0.3%
15. Naphazoline HCl - 0.05% / Antazoline Phosphate -
0.05% 0.5%
16. Hydroxypropyl Cellulose Ophthalmic Insert

§ 4.4. Standards of practice.

Final Regulations

A. A certified optometrist after diagnosing and treating a patient who has a disease or condition as defined in § 4.2, which disease or condition failed to improve appropriately, usually within 72 hours, shall refer the patient to an ophthalmologist. A patient with a superficial corneal abrasion which does not improve significantly within 24 hours shall be referred to an ophthalmologist.

B. The certified optometrist shall establish a written protocol for the management of patient emergencies and referrals to physicians.

C. The treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa with the administration of certain therapeutic pharmaceutical agents by certified optometrists is prohibited in children five years of age or younger.

PART V. RENEWAL OF CERTIFICATION.

§ 5.1. Renewal of certification.

Every optometrist certified by the board shall renew his certification biennially on or before July 1 and pay the prescribed fee in § 7.1 in each odd number year.

§ 5.2. Renewal requirement.

Every optometrist certified by the board must submit proof of current certification to administer cardiopulmonary resuscitation (CPR) for renewal of certification.

§ 5.3. Expiration of certification.

An optometrist who allows his certification to expire shall be considered not certified by the board. An optometrist who proposes to resume the treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa and administer certain therapeutic pharmaceutical agents shall make a new application for certification and pay a fee prescribed in § 7.1.

PART VI. POSTGRADUATE TRAINING.

§ 6.1. Postgraduate training required.

Every applicant applying for certification to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be required to complete a full-time approved postgraduate *optometric* training program prescribed by the board or to document that his graduate *optometric* program contained equivalent elements to the postgraduate *optometric* program approved by the board .

A. The approved postgraduate program shall be the

Ocular Therapy for the Optometric Practitioner #750B conducted by the Pennsylvania College of Optometry or any other postgraduate *optometric* program approved by the board.

B. Upon completing the required postgraduate *optometric* training program, the applicant may apply to sit for the certification examination administered by the board.

C. The certification examination shall be a two-part comprehensive examination in accordance with § 3.1 of these regulations.

D. An applicant shall be certified to administer cardiopulmonary resuscitation (CPR).

PART VII. FEES.

§ 7.1. Fees required by the board.

A. Application fee for the examination to be certified to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be \$300. The examination fee is nonrefundable. Upon written request 21 days prior to the scheduled examination and payment of a \$100 fee, an applicant may be rescheduled for the next administration of the examination.

B. The fee for biennial renewal of certification shall be \$125.

C. The fee for reinstating an expired certification shall be \$150.

D. The fee for a letter of good standing/verification to another state for a license shall be \$10.

E. The fee for reinstatement of a revoked certificate shall be \$750.

ALL QUESTIONS MUST BE ANSWERED. If any of the following questions is answered YES, explain and substantiate with documentation.

3. I hereby certify that I studied optometry and received the degree of _____
 on _____ (DATE) from _____ (SCHOOL) (TYPE OF DEGREE)
4. Do you hold a current license to practice Optometry in Virginia? _____. If YES, give license number: _____
5. List all jurisdictions in which you have been certified / licensed to practice optometry.

6. List all didactic and clinical postgraduate training in the treatment of diseases or abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents.

7. Do you currently hold a certificate to administer cardiopulmonary resuscitation (CPR)? if YES, provide a copy of certification. Yes No
8. Have you ever been convicted of a violation of/ or pled Nolo Contendere to any Federal, State, or local statute, regulation or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except convictions for driving under the influence). Yes No
9. Have you ever had hospital privileges or any membership in a state or local professional society revoked, suspended, or sanctioned in any manner? Yes No
10. Have you voluntarily withdrawn from a hospital staff or from any professional society while under investigation? Yes No
11. Have you had any malpractice suits brought against you in the last ten years? If so, how many, and provide a letter from your attorney explaining each case. Yes No
12. Have you ever been physically or emotionally dependent upon the use of alcohol/drugs or been treated by, consulted with, or been under the care of a professional for substance abuse? If so, please provide a letter from the treating professional. Yes No
13. Have you ever received treatment for/ or been hospitalized for a nervous, emotional or mental disorder? If so, please provide a letter from your treating professional summarizing diagnosis, treatment, and prognosis. Yes No
14. Do you have a serious physical disease or diagnosis which could affect your performance of professional duties? If so, please provide details. Yes No
15. Have you ever been adjudged mentally incompetent or been voluntarily committed to a mental institution? Please provide details. Yes No

16. AFFIDAVIT OF APPLICANT:

I, _____, being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents.
 I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present) and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Medicine any information, files, or records requested by the board in connection with the processing of individuals and groups listed above, which is material to me and my application. I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension or revocation of my certificate to practice as a certified optometrist in the Commonwealth of Virginia.

RIGHT THUMB PRINT

THIS MUST BE SIGNED IN THE PRESENCE OF
A NOTARY PUBLIC

IF RIGHT THUMB IS MISSING, USE LEFT AND SO INDICATE.

SIGNATURE OF APPLICANT

NOTARY: City/County of _____ State of _____

Subscribed and Sworn to before me this _____ day of _____ 19____

My Commission Expires _____

NOTARY PUBLIC

(NOTARY SEAL)

HRB-601
1/31/91
Optometry

Form A

CERTIFICATION OF TRAINING

Every applicant applying for certification to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall provide evidence of having completed a full-time approved postgraduate optometric training program, or a full-time approved graduate optometric training program to the Board.

I hereby authorize the director of the postgraduate or graduate training program to release to the Virginia Board of Medicine the information listed below in connection with the processing of my application.

Signature of Applicant

It is hereby certified that _____ completed
the program for _____
Title of Postgraduate or Graduate Optometric Program
from _____ to _____
(mo/day/yr) (mo/day/yr)

School of Optometry

Address

City/State

Program Director

Date

SCHOOL SEAL

Please return to: Virginia Board of Medicine
1601 Rolling Hills Drive
Richmond, VA 23229-5005

HRB-601
1-31-91
Optometry

EXAM

Form B

Please complete top portion and forward one form to each state Board where you hold or have held an optometry license. Extra copies may be xeroxed if needed.

NOTE: Some states require a fee, paid in advance, for providing clearance information. To expedite, you may wish to contact the applicable state/s.

CLEARANCE FROM OTHER STATE BOARD

I was granted license/certificate # _____ on _____
by the state of _____. The Virginia Board of medicine requests that I submit evidence
that my license/certification in the state of _____ is in good standing. You are
hereby authorized to release any information in your files, favorable, or otherwise, directly to the Virginia Board of Medicine,
1601 Rolling Hills Drive, Richmond, Virginia 23229-5005. Your earliest attention is appreciated.

Signature

(Please print or type name)

Executive Office of State Board:

Please complete and return this form to the Virginia Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005.

State of _____ Name of Licensee _____

License/Certificate No. _____ Date Issued _____

Licensed/Certified through (Check one)

National Examination State Board Examination

Reciprocity/Endorsement from _____

License/Certificate is: Current Lapsed

_____ Diagnostic Pharmaceutical Agents _____ Therapeutic Pharmaceutical Drugs

Has applicant's license/certificate ever been suspended or revoked? YES NO. If so, for what reason?

Derogatory Information, if any _____

(BOARD SEAL)

Signature

Title

State Board

HRB-601 INSTRUCTIONS FOR COMPLETING THE APPLICATION
 1/31/91 FOR CERTIFICATION BY EXAMINATION
 Optometry

GRADUATE OPTOMETRIC PROGRAMS APPROVED

These instructions provide for a Doctor of Optometry to prescribe for and treat certain diseases or abnormal conditions of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

The Virginia Certification examination will be held on June 25, 1991 in Richmond, Virginia. The deadline date for receipt of the completed application is thirty (30) days prior to the date of the certification examination.

THE FEE for taking the certification examination is \$300.00. The examination fee is non-refundable. The applicant may, upon written request twenty-one (21) days prior to the scheduled examination and payment of a \$100.00 fee, be rescheduled for the next administration of the examination. The payment of the fee must be made payable to: TREASURER OF VIRGINIA.

NOTE: FEES SENT BEFORE THE RECEIPT OF AN APPLICATION WILL BE RETURNED. APPLICATIONS SENT WITHOUT THE FEE WILL BE RETURNED ALSO.

VERIFICATION OF VIRGINIA LICENSURE - Contact the Virginia Board of Optometry to request verification of licensure to practice and certification to use diagnostic pharmaceutical agents be provided to the Virginia Board of Medicine. The Board of Optometry number is (804) 662-9910.

CERTIFICATION OF CARDIOPULMONARY RESUSCITATION - Provide evidence of certification completed within the past two years to administer CPR. PLEASE NOTE THAT YOUR SIGNATURE MUST BE ON THE CPR CERTIFICATION CARD.

PROOF OF OPTOMETRIC TRAINING - Graduate Optometric Training or Postgraduate Optometric Training - Forward Form A to the graduate optometric or postgraduate training program for completion as directed. **NOTE: SEE ATTACHED LIST OF APPROVED OPTOMETRIC TRAINING OR POSTGRADUATE OPTOMETRIC PROGRAMS. IF YOUR TRAINING PROGRAM IS NOT INCLUDED ON THIS LIST, PLEASE REQUEST THAT A COURSE STUDY OF THE TRAINING YOU RECEIVED BE ATTACHED TO FORM A.**

LICENSURE IN OTHER STATES: Forward Form B to those states in which you have held or currently hold a license to practice Optometry. PLEASE NOTE THAT YOUR SIGNATURE MUST BE ON THE FRONT SIDE OF THE QUESTIONNAIRE. ONE QUESTIONNAIRE HAS BEEN ENCLOSED, AND YOU MAY DUPLICATE THIS FORM FOR YOUR CONVENIENCE.

Your application will be acknowledged upon receipt and you will be provided with a list of those documents which are outstanding.

The application will not be considered complete until all of the required information is received, and the application must be completed and approved to be eligible to sit for the certification examination.

Contact Person: Brenda H. Irvin, Certification Administrator
 Virginia Board of Medicine
 (804) 662-7664

School	Approved by Committee	Beginning Graduation Date Adopted for Approval in Lieu of of Postgraduate Training
University of Alabama at Birmingham	5-10-91	1983
Ferris State College College of Optometry	4-12-91	1987
University of Houston	6-03-91	1981
Illinois College of Optometry	5-10-91	1987
Indiana University	5-10-91	1984
University of Missouri - St. Louis	5-10-91	1988
The New England College of Optometry	5-10-91	1987
The Ohio State University College of Optometry	4-12-91	1981
Pacific University College of Optometry	4-12-91	1981
Pennsylvania College of Optometry	4-12-91	1987
Southern College of Optometry	4-12-91	1981
SCHOOLS.med		

POSTGRADUATE OPTOMETRIC PROGRAMS APPROVED

<u>School of Optometry</u>	<u>Program</u>
The New England College of Optometry	Therapeutic Pharmaceutical Agents Program presented October 1988 - September 1990
University of Houston	Concentrated Ocular Therapeutic Course
Illinois College of Optometry	Therapeutic Approaches Course
University of Missouri - St. Louis	Clinical Ocular Therapy/100 Hour Course
Pennsylvania College of Optometry	Ocular Therapy for the Optometric Practitioner #750B
Southern California College of Optometry	Therapeutic Management of Ocular Conditions

POSTDOCTORAL RESIDENCYS OR FELLOWSHIPS

<u>School</u>	<u>Approved by Committee</u>	<u>Beginning Date Adopted for Approval of Postdoctoral Residency or Fellowship Programs in Lieu of Postgraduate Training</u>
Pennsylvania College of Optometry	5-10-91	1982

COURSES.med

Final Regulations

BOARD OF OPTOMETRY

Title of Regulation: VR 510-01-1. Regulations of the Virginia Board of Optometry.

Statutory Authority: § 54.1-2400 and Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1 of the Code of Virginia.

Effective Date: January 1, 1992.

Summary:

The final regulations of the Board of Optometry state the requirements for licensure of optometrists, disciplinary provisions, fees applicable to reinstatement and clarification of continuing education. The amendments are the result of a revision process which included the biennial review of all existing regulations and a public hearing as required by law. After receiving public testimony, § 3.1 4 f was deleted. There were no other substantial changes made since the proposed regulations were published. The final regulations will provide clarification on licensing renewal, unprofessional conduct, continuing education requirements, professional designation, and reinstatement procedures.

VR 510-01-1. Regulations of the Virginia Board of Optometry.

PART I. GENERAL PROVISIONS.

§ 1.1. Public participation guidelines.

A. Mailing list.

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

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceedings," the subject of which is proposed or existing regulations.
3. Final regulation adopted.

B. Being placed on list: deletion.

Any person wishing to be placed on the mailing list may have their name added by writing the board. In addition, the board may, at its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation, in the formation or promulgation of regulations. Those on the list will be provided all information stated in subsection A of this section. Those on the list may be periodically requested to indicate their desire to continue to receive documents or to be deleted from the list. When mail is returned as

undeliverable, or when no timely response is forthcoming, they will be deleted from the list.

C. Notice of intent.

At least 30 days prior to publication of the notice of intent, an informational proceeding as required by § 9-6.14:7.1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation and will address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar for inclusion in the Virginia Register of Regulations.

D. Information proceedings or public hearings for existing rules.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar for inclusion in the Virginia Register. Such proceeding may be held separately or in conjunction with other informational proceedings.

E. Petition for rulemaking.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received in a timely manner shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

F. Notice of formulation and adoption.

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

G. Advisory committees.

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

§ 1.2. Applicants.

A. The applicant, in order to be qualified to be examined by the board for licensure to practice optometry in the Commonwealth, shall:

1. Be a graduate of a school of optometry approved by the Council on Optometric Education; have the registrar of the school provide an official transcript to the board;

2. File at least 30 days prior to the date of examination, on a form supplied by the board, a completed application which shall have affixed securely in the space provided, ~~one~~ *two identical* recent passport-type ~~photograph~~ *photographs* of himself, not less than 2 1/2 by 2 1/2 inches in size;

3. Submit an official report from the National Board of Examiners in Optometry of the scores received on all parts of the examination of the National Board of Examiners in Optometry.

4. Submit the prescribed examination fee;

B. If any applicant withdraws from the examination at least 30 days prior to the examination date, all but the prescribed administrative fee will be refunded. If the applicant withdraws in 30 days or fewer prior to the examination date, only the licensure fee will be refunded. If an applicant is unsuccessful in passing the examination, the applicant shall receive upon request a refund of the licensure fee.

§ 1.3. Fees.

The following fees are required:

Examination fee	\$150
Initial Licensure Fee	
First Examination (<i>January</i>) after Renewal	\$150
Second Examination (<i>July</i>) after Renewal	\$75
Examination fee, certification to use diagnostic pharmaceutical agents	\$100
Licensure fee (renewed annually)	\$150
Late fee	\$100
Administrative Fee	\$25
Professional Designation Application Fee	\$200
<i>Fictitious Name</i>	
Biennial Professional Designation Registration Fee	\$100/location
<i>Annual Fictitious Name</i>	
<i>Registration Fee (due 10/31)</i>	<i>\$50/location</i>
Reinstatement fee	\$400 \$250

PART II.
EXAMINATIONS.

§ 2.1. Examinations.

A. For the purpose of § 54.1-3211 of the Code of Virginia, the board adopts all parts of the examination of

the National Board of Examiners in Optometry as its written examination for licensure. ~~In addition, upon receiving a passing score on all parts of the examination of the National Board of Examiners in Optometry, an applicant shall successfully complete a practical examination administered by the Virginia Board of Optometry.~~

B. A candidate may take or retake the practical examination upon payment of the prescribed fee. A candidate failing the practical examination shall retake the entire examination, except that a candidate who fails one section may retake the failed portion at the next administration of the examination only, upon payment of the examination fee. ~~Otherwise the full examination shall be retaken. In addition, upon receiving a passing score on all parts of the examination of the National Board of Examiners in Optometry, an applicant shall pass a practical examination administered or accepted by the Virginia Board of Optometry. If the board chooses to use a regional or national practical examination, the applicant must pass this examination prior to licensure.~~

C. All candidates must take and pass the law portion of the examination.

D. A candidate may take or retake the practical examination or law examination upon payment of the prescribed examination fee.

PART III.
UNPROFESSIONAL CONDUCT.

§ 3.1. Unprofessional conduct.

It shall be deemed unprofessional conduct for any licensed optometrist in the Commonwealth to:

1. Fail to use in connection with the optometrist's name wherever it appears relating to the practice of optometry one of the following: the word "optometrist," the abbreviation "O.D.," or the words "doctor of optometry."
2. Practice optometry under a name other than the optometrist's own name, except to the extent authorized by § 4.1, "Professional Designations."
3. Fail to maintain records on each patient for not less than five years from the date of the most recent service rendered.

a. A complete record of all examinations and treatment made of a patient shall include but not be limited to:

- (1) During a comprehensive eye examination:
 - (a) Care history;
 - (b) Acuity measure;

Final Regulations

- (c) Internal tissue health evaluation;
 - (d) External tissue health evaluation;
 - (e) Refraction;
 - (f) Treatment, recommendations and directions to the patients, including prescriptions; and
 - (g) Name of attending optometrist.
- (2) During a contact lens examination:
- (a) The requirements of subdivision 3 a (1) of this section;
 - (c) Acuity through the lens;
 - (d) Directions for the care and handling of lenses and an explanation of the implications of contact lenses with regard to eye health and vision; and
 - (e) Name of attending optometrist.
- (3) During a follow-up contact lens examination:
- (a) Assessment of fit of lens;
 - (b) Acuity through the lens;
 - (c) Such further instructions as in § 3.1 3 a (2)(d) above as necessary for the individual patient; and
 - (d) Name of attending O.D.
4. Fail to include the following information on a prescription for ophthalmic goods:
- a. The printed name of the prescribing optometrist;
 - b. The address and telephone number at which the patient's records are maintained and the optometrist can be reached for consultation;
 - c. The name of the patient;
 - d. The signature of the optometrist;
 - e. The date of the examination, and, if appropriate, expiration date of the prescription;
 - f. [Any special instructions. *All contact lens prescriptions shall be specifically identified and contain all necessary identification and contact lens parameters. The inclusion of the term "OK for contact lenses" on a specific prescription shall not be deemed acceptable for contact lens use.*
 - g. *Any special instructions.*]
5. Refuse to provide a written prescription for

spectacle lenses upon the request of the patient once all fees have been paid.

6. Refuse to provide a written prescription for contact lenses upon the request of the patient once all fees have been paid and the prescription has been established and the follow-up care completed. Follow-up care will be presumed to have been completed if there is no reappointment scheduled within 30 days after the last visit.

7. Advertise in a manner that is false, misleading, or deceptive. False, misleading and deceptive advertising shall include, but not be limited to, when the price of ophthalmic goods or services (or both) is advertised, to fail to state what goods and services the advertised price includes.

8. Administer any diagnostic pharmaceutical agents, specified in § 54.1-3221 of the Code of Virginia, without certification of the Board of Optometry to use such agent.

9. Fail to post conspicuously in the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location.

10. Violate any provision of these regulations pertaining to professional designations.

11. Fail to maintain patient records, perform procedures or make recommendations during any eye examination contact lens examination or treatment as necessary to protect the health and welfare of the patient.

12. *Practicing on an invalid license shall occur when the requirements as set forth in § 5.1 A and C or § 6.1 A and B have not been met.*

PART IV. PROFESSIONAL DESIGNATIONS.

§ 4.1. Professional designations.

A. An optometrist may practice in an office that uses any of the following professional designations ; ~~provided that the name of at least one licensed optometrist, associated with the office appears in conjunction with any advertisement or other use of that description: .~~

- 1. The full name of the optometrist as it appears on his license and or renewal certificate; or
- 2. The name of an optometrist who employs him and practices in the same office; or
- 3. A partnership name composed of some or all names of optometrists practicing in the same office; or

4. A fictitious name, if the conditions set forth in subsection B. of this section are fulfilled.

B. Optometrists licensed in this Commonwealth who practice as individuals, partnerships, associations, or other group practices may use a fictitious name for the optometric office in which they conduct their practices, provided the following conditions are met:

1. Each fictitious name shall be registered with the board by a licensed optometrist, who must be associated with the optometric office and who shall assume responsibility for compliance with this section. Each fictitious name shall be approved by the board and a fee shall be paid as prescribed by board regulations prior to use of the name. Names which, in the judgment of the board, are false, misleading, or deceptive will be prohibited.

2. No licensed optometrist may, at any time, register to practice optometry under more than one fictitious name.

3. All advertisements, including but not limited to signs, printed advertisements, and letterheads, shall contain the following: *word*

a. The name of at least one licensed optometrist associated with the optometric office who shall, in conjunction with the licensed optometrists referred to in paragraph 1 of this subsection, assume responsibility for the advertisement.

b. Lettering in which the name of the optometrist appears of at least half the size of the lettering in which the fictitious name appears.

4. No fictitious name may be used that does not contain the word "optometry" or reasonably recognizable derivatives thereof unless the name of the optometrist is used with the fictitious name with the O.D. designation [*or* ,] Doctor of Optometry [*or* optometrist] .

5. 4. In the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location shall be kept at all times prominently and conspicuously displayed.

6. 5. The names of all optometrists who practice under the fictitious name shall be maintained in the records of the optometric office for five years following their departure from the practice.

7. 6. Subsequent to the administration of any optometric service, the optometrist of record shall place his name in the record of the patient following a description of the service rendered. If the treatment is rendered by an optometrist other than the optometrist of record, the name of that optometrist

shall be placed in the record of the patient.

8. 7. The name of the licensed optometrist providing care shall appear on the initial statement of charges and on the receipts given to patients.

9. 8. No fictitious name may be used which contains the name of an inactive, retired, removed, or deceased optometrist, except that for a period of no more than one year from the date of succession to a practice, an optometrist may list the name of the inactive, retired, removed, or deceased optometrist, so long as he does so in conjunction with his own name, together with the words, "succeeded by," "succeeding," or "successor to."

PART V.

RENEWAL OF LICENSURE; REINSTATEMENT.

§ 5.1. Renewal fees.

A. Every person authorized by the board to practice optometry shall, on or before October 31 of every year, pay to the executive director of the Board of Optometry the prescribed annual licensure fee.

B. It shall be the duty and responsibility of each licensee to assure that the board has the licensee's current address. [*All changes of mailing address or name shall be furnished to the board within five days after the change occurs.*] All notices required by law or by these rules and regulations are to be deemed to be validly tendered when mailed to the address given [*and shall not relieve the licensee of the obligation to comply*].

C. It shall be the duty of each person so licensed to return the renewal application with the prescribed fee prior to the expiration of their license *postmarked no later than October 31* . The license of every person who does not return the completed form and fee by October 31 of each year shall automatically become invalid. Upon expiration of the license, the executive director of the board shall notify the licensee of expiration and reinstatement procedures. *The board shall reinstate the lapsed license, provided that the applicant can demonstrate continuing competence; that the applicant has satisfied requirements for continuing education during the lapsed period; and that the applicant has paid the prescribed late fees, all unpaid renewal fees from the time the license lapsed, and the prescribed reinstatement fee. The license of every person who does not return the completed form and fee by October 31 of each year shall be extended for 30 days until November 30 and may be renewed by paying the prescribed late fee, postmarked no later than November 30 provided the requirements of § 6.1 have been met. After November 30, an unexpired license is invalid. The executive director may [reinstate the lapsed license until November 30. After November 30, reinstatement shall be by vote of the board, grant reinstatement] provided that the applicant has demonstrate continuing competence; that the applicant has*

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satisfied requirements for continuing education during the lapsed period; and that the applicant has paid all unpaid renewal fees from the time the license lapsed, and the prescribed reinstatement fee. In addition to the foregoing reinstatement procedure, the failure to renew a license may subject the licensee to disciplinary action by the board.

D. The board may, in its discretion, require an applicant who cannot satisfy §§ 1.2 and 2.1 and the requirement of subsection C of § 5.1 of these regulations, to pass all parts of the written examination of the National Board of Examiners in Optometry or the state practical examination administered or accepted by the board, or both.

PART VI. CONTINUING EDUCATION.

§ 6.1. Continuing education.

A. Each license renewal shall be conditioned upon submission of evidence to the board of 12 hours (24 hours for the October 31, 1988, renewal) of continuing education taken by the applicant during the previous license period.

B. It shall be the responsibility of each licensee to submit evidence substantiating attendance of continuing education courses, as required by subsection A of this section, no later than the last day of each license period than October 31 of the license period.

C. The board will review courses for acceptability for purposes of continuing education requirements if the following information is provided:

1. The title of the course;
2. The sponsoring organization(s);
3. The name of the lecturer;
4. The qualifications of the lecturer;
5. An outline of the course's content;
6. The length of the course in clock hours;
7. The method of certification of attendance or completion if offered as a correspondence course ; and
8. Number of credit hours requested.

D. The titles of all courses approved by the board will be kept on a list maintained by the board. All courses approved by the board shall pertain directly to the care of the patient.

Courses excluded by the board shall include:

1. Courses which are designed to promote the sale of

specific instruments or products;

2. Courses offering instruction on augmenting income; and

3. Courses which are neither advertised nor in fact available to all optometrists or any courses for which there is no independent assurance that no part of the educational session is devoted to the promotion of specific instruments, products, or marketing philosophies.

E. When the annual license fee is submitted to the executive director of the board, the licensee shall enclose with it the required forms to indicate fulfillment of the continuing education requirements for the previous period. All continuing education must be completed prior to October 31 unless extension or waiver has been granted by the Continuing Education Committee. In the event such form, with proper substantiation, is not filed by that continuing education has not been completed by October 31, the executive director of the board shall notify the licensee that their license has lapsed. The board may reinstate the license, upon showing of disability or undue hardship, or upon showing that the licensee has complied with the requirements of subsection B. of this section.

DEPARTMENT OF SOCIAL SERVICES (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(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. 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 615-70-17. Child Support Enforcement Program.

Statutory Authority: § 63.1-25 of the Code of Virginia and Public Laws 93-647 and 98-378.

Effective Date: January 1, 1992.

Summary:

Public Law 100-485 requires that child support orders be subject to mandatory withholding of earnings if the custodial parent requests it regardless of whether support payments are in arrears.

Public Law 100-203 requires the Division of Child Support Enforcement to provide medical support services to families who receive Medicaid and to provide full child support services to this population upon request. It also requires the continuation of child

support services when Aid to Dependent Children/Foster Care and Medicaid cases close.

These final revisions to this regulation are being submitted in response to changes in federal laws. The Department of Social Services, with the approval of the State Board of Social Services, is requesting exclusion from the public participation requirement of the Administrative Process Act.

VR 615-70-17. Child Support Enforcement Program.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"ADC" means Aid to Dependent Children which is established under Title IV-A of the Social Security Act. This is a category of financial assistance paid on behalf of children who are deprived of one or both of their parents by reason of death, disability, or continued absence (including desertion) from the home, established under Title IV-E of the Social Security Act. This is a category of financial assistance paid on behalf of children who otherwise meet the eligibility criteria for ADC and who are in the custody of the local social service agencies.

"Administrative" means noncourt ordered, legally enforceable actions the department may take to establish or enforce a child support obligation.

"Appeal" means a request for a review of an action taken by the division.

"Application" means a written document requesting child support enforcement services which the department provides to the individual or agency applying for services and which is signed by the custodial parent or agency representative.

"Assignment" means any assignment of rights to support or any assignment of rights to medical support and to payments for medical care from any third party.

"Bad check" means a check not honored by the bank on which it is drawn.

"Custodial parent" means (i) the natural or adoptive parent with whom the child resides, (ii) a step-parent or other person who has legal custody of the child and with whom the child resides, or (iii) a social service agency which has legal custody of a child in foster care.

"Debt" means the total unpaid support obligation established by court order, administrative order, or payment of public assistance which is owed by an absent

responsible parent to either the custodial parent or to the Commonwealth.

"Delinquent" means an unpaid child support obligation.

"Department" means the Virginia Department of Social Services.

"Disregard payment" means a payment made to an ADC recipient in an amount up to \$50. The payment is made from the current child support collected on the individual's behalf.

"District office" means a local office of the Division of Child Support Enforcement responsible for the operation of the Child Support Enforcement Program.

"Division" means the Division of Child Support Enforcement of the Virginia Department of Social Services.

"Enforcement" means ensuring the payment of child support through the use of administrative or judicial means.

"Erroneous payment" means a payment sent to the custodial parent for which no funds were received by the department to be paid to that client.

"Financial statement" means a sworn document from the custodial parent and absent responsible parent showing their financial situation.

"Foreclosure" means a judicial procedure to enforce debts involving forced judicial sale of the real property of a debtor.

"Health care coverage" means any plan providing hospital, medical, or surgical care coverage for dependent children provided such coverage is available and can be obtained by an absent responsible parent at a reasonable cost.

"Hearings officer" means a disinterested person designated by the department to hold appeal hearings and render appeal decisions.

"IV-D agency" means a governmental entity administering the child support program under Title IV-D of the Social Security Act. In Virginia the IV-D agency is the Division of Child Support Enforcement.

"Judicial" means an action initiated through a court.

"Location only services" means that certain entities such as courts and other state child support enforcement agencies can receive only locate services from the department.

"Local social service agency" means one of Virginia's locally administered social service or welfare departments which operate the ADC and ADC/FC programs and other

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programs offered by the department.

"Location" means obtaining information which is sufficient and necessary to take action on a child support case including information concerning (i) the physical whereabouts of the absent parent or his employer, or (ii) other sources of income or assets, as appropriate.

"Medicaid only" means a category of public assistance whereby a family receives Medicaid but is not eligible for or receiving ADC.

"Mistake of fact" means an error in the identity of the absent responsible parent or in the amount of child support owed.

"Obligation" means the amount and frequency of payments which the absent responsible parent is legally bound to pay.

"Pendency of an appeal" means the period of time after an administrative appeal has been made and before the final disposition.

"Public assistance" means payments for ADC, or ADC/FC, or Medicaid-only.

"Putative father" means an alleged father; a person named as the father of a child born out-of-wedlock but whose paternity has not been established.

"Reasonable cost" means, as it pertains to health care coverage, available through employers, unions, or other groups without regard to service delivery mechanism.

"Recipient" means a person receiving public assistance.

"Responsible parent" means a person required under law to support a dependent child or the child's caretaker.

"Service" or *"service of process"* means the delivery to or leaving of, in a manner prescribed by state statute, an administrative or court order giving the absent responsible parent reasonable notice of the action being taken against him and affording the person an opportunity to be heard regarding the matter.

"Summary of facts" means a written statement of facts outlining the actions taken by the department on a case which has been appealed.

"Supplemental Security Income" means a program administered by the federal government which guarantees a minimum income to persons who meet the requirement of aged, blind, or disabled.

PART II. GENERAL INFORMATION.

Article 1. Services.

§ 2.1. Services provided.

A. Child support enforcement services shall be provided as a group to ADC, ADC/FC, Medicaid only, and non-ADC clients. Courts and other state IV-D agencies may apply for location-only services. *Medicaid only clients shall be provided services to establish or enforce medical support and may, at their request, receive full services.*

B. Child support enforcement services shall include the following services which may involve administrative or court action:

1. Location of absent responsible parents, their employers, or their sources of income;
2. Establishment of paternity;
3. Establishment or modification of child support obligations, including the responsibility to provide health care coverage;
4. Enforcement of child support obligations, both administratively and judicially determined; and
5. Collection and disbursement of child support payments, regardless of whether the obligation is legally established.

§ 2.2. Eligibility for services.

A. Individuals residing in Virginia who receive ADC, ADC/FC, or Medicaid only assistance are automatically eligible for child support services.

1. ADC ; and ADC/FC ; and Medicaid only applicants and recipients must accept child support services as a condition of eligibility for public assistance unless the local social service agency determines that good cause exists for not accepting these services.
2. Medicaid only applicants and recipients must accept medical support and paternity establishment services as a condition of eligibility for Medicaid unless the local social services agency determines that good cause exists for not accepting these services.

~~2.~~ 3. The department shall suspend action on a child support case in which the local social service agency has determined that good cause exists for not cooperating with the department in its pursuit of child support.

~~3.~~ 4. The department shall continue to provide child support services to a custodial parent when the ADC , ADC/FC, or Medicaid only case closes.

- a. The department shall provide these services without requiring a formal application.
- b. The department shall continue to provide these

services until the custodial parent states in writing that the services are no longer wanted unless the closure of the child support case is contrary to state or federal law.

B. Individuals residing in Virginia or having a legal residence in Virginia who do not receive ADC, ADC/FC, or Medicaid only assistance must make an application for child support services as a condition of eligibility for those services with the exception that an application is not required for cases transferred from the courts to the department on or after October 1, 1985. For such cases the payee shall be deemed as having executed an authorization to seek or enforce a support obligation with the department unless the payee specifically indicates that the department's services are not desired.

1. The child for whom child support is being requested must be under 18 years of age, unless:

- a. There is a court order specifying that support continue until a later age, or
- b. The child is handicapped, or
- c. The services being requested are for a child support obligation which existed prior to the child's 18th birthday.

2. If the child for whom support is being sought is under 18 years of age, the applicant must be the parent or legal guardian of the child and the child must reside with the applicant.

C. Individuals residing outside of Virginia shall be eligible for child support services upon a request for services from the IV-D agency in the state in which they reside.

D. Courts and other state IV-D agencies are eligible for location only services.

Article 2.

Department as Payee.

§ 2.3. Assignment of rights.

A. Assignment of child support rights to the Commonwealth is automatic by operation of law with receipt of ADC ; and ADC/FC ; or Medicaid only assistance and ; for ADC cases, continues after the public assistance case closes unless the client requests in writing that the services be terminated.

B. *Assignment of medical support rights to the Commonwealth is automatic by operation of law with receipt of Medicaid only assistance and continues after the public assistance case closes unless the client requests in writing that the service be terminated.*

§ 2.4. Authorization to seek or enforce a child support

obligation.

Persons receiving child support services shall give the department written authorization to seek or enforce support on behalf of the child or spouse and child.

§ 2.5. Special conditions regarding receipt of ADC or ADC/FC.

A. Receipt of ADC or ADC/FC assistance creates a debt to the Commonwealth.

B. If a debt is owed to the Commonwealth due to the receipt of ADC or ADC/FC assistance, the department shall apply amounts collected for past due child support toward this debt unless the court order stipulates otherwise.

C. Money received from tax intercept shall be applied, in total, toward the ADC or ADC/FC debt.

Article 3.

Application and Case Assessment and Prioritization.

§ 2.6. Application fees.

The application fee for child support services is \$1.00 for nonpublic assistance clients. The department shall pay this fee on behalf of such applicants for child support enforcement services.

§ 2.7. Application process.

A. The department shall make applications accessible to the public and shall include with each application information describing child support enforcement services, the custodial parent's rights and responsibilities, the absent responsible parent's rights, and payment distribution policies.

1. The department shall provide an application on the day an individual requests the application when the request is made in person.

2. The department shall send applications within five working days of the date a written or telephone request for an application is received.

B. The department shall provide ADC, ADC/FC, and Medicaid-only recipients with the above information, the rights and responsibilities of custodial parents, the absent responsible parent's rights and general distribution policies within five working days of receiving the referral from a local social service agency.

C. The department shall, within two calendar days of the date of application from a nonpublic assistance recipient or the date a referral of a public assistance recipient is received, establish a case record, and within 20 calendar days, obtain the information needed to locate the absent responsible parent, initiate verification of

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information, if appropriate, and gather all relevant facts and documents.

§ 2.8. Case assessment and prioritization.

A. Case assessment.

The department shall (i) assess the case information to determine if sufficient information to establish or enforce a child support obligation is available and verified and (ii) attempt to obtain additional case information if the information is not sufficient and (iii) verify case information which is not verified.

B. Case prioritization.

1. The department shall give priority to cases which contain any of the following on the absent responsible parent or putative father:

- a. Verified, current, residential address; or
- b. Current employer; or
- c. Last known residential address or last known employer if the information is less than three years old; or
- d. Social security number and date of birth.

2. The department shall give low priority but shall review periodically cases in which:

- a. There is not adequate identifying or other information to meet requirements for submittal for location, or
- b. The absent responsible parent receives supplemental security income or public assistance.

§ 2.9. Service of process.

Service is necessary when child support obligations are established either administratively or through court action and, in some instances, when actions to enforce the obligation are taken.

A. The methods of service of process required by law vary with the action being taken and include individual personal service, substituted service, posted service, certified mail, and regular mail.

B. The department shall use diligent efforts to serve process. Diligent efforts to serve process shall include:

1. When the method of service of process used to notify an absent parent of an administrative action is not successful and the address of the absent responsible parent is known and verified, the department shall exhaust every method of service allowed by law.

2. When the method of service of process used to notify an absent parent of court action is not successful and the address of the absent parent is known and verified, the department shall provide the sheriff or process server with additional information about the absent parent's address.

3. When the method of service of process is not successful after the department has exhausted all methods of service allowed or has provided the sheriff or process server with an additional information, the department shall repeat its attempts to serve process at least quarterly.

§ 2.10. Costs associated with the provision of child support services.

A. The department may not require custodial parents to pay the costs associated with the provision of child support services.

B. The putative father shall pay the costs associated with the determination of paternity if he is ordered by a court to pay these costs.

PART III. LOCATION.

§ 3.1. The department shall provide location services (i) whenever the location of absent responsible parents or their employers is needed in order to establish or enforce a child support obligation and (ii) when there is sufficient identifying information available to the department to access location sources.

§ 3.2. Location sources.

A. Whenever location services are provided, the department shall access all necessary locate sources. Locate sources include but are not limited to:

1. Local public and private sources.
2. State Parent Locator Services.
3. Electronic Parent Locator Network.
4. Central Interstate Registry.
5. Federal Parent Locator Service.
6. Parents, friends, and other personal sources.

§ 3.3. Location time requirements.

A. The department shall access all appropriate location sources within 75 calendar days of receipt of the application for child support services or the referral of a public assistance recipient if the department determines that such services are needed and quarterly thereafter if the location attempts are unsuccessful.

B. The department shall review at least quarterly those cases in which previous attempts to locate absent responsible parents or sources of income or assets have failed, but adequate identifying and other information exists to meet requirements for submittal for location.

C. The department shall provide location services immediately if new information is received which may aid in location.

D. When the custodial parent resides in Virginia, the department shall utilize the Federal Parent Locator Service at least annually when other location attempts have failed.

E. When another state requests location services from the department, the department shall follow the time requirements described in the Code of Federal Regulations, Title 45, part 303, § 303.7.

PART IV. ESTABLISHING CHILD SUPPORT OBLIGATIONS.

Article 1. Paternity Establishment.

§ 4.1. Establishing paternity.

In order for the department to establish a child support obligation and to enforce and collect child support payments from a putative father, the father must be determined to be legally responsible for the support of the child. In situations in which a putative father has not been legally determined to be the father of the child, paternity must be established before a child support obligation can be administratively ordered or court ordered.

1. The department shall obtain a sworn statement(s) from the custodial parent acknowledging the paternity of the child or children for whom child support is sought.

2. Based on this sworn statement, the department shall attempt to locate the putative father, if necessary, according to the locate time requirements described in Part III above.

3. Once the putative father is located, the department shall contact him to determine if he is willing to sign a sworn statement voluntarily acknowledging paternity or to voluntarily submit to blood testing to determine paternity.

a. The department shall advise the putative father verbally and in writing of his rights and responsibilities regarding child support prior to obtaining a sworn statement of paternity.

b. A putative father who signs a sworn statement of paternity along with an acknowledgement from the mother or who, through genetic blood testing, is

affirmed by at least a 98% probability to be the father of the child is responsible for the financial support of the child or children.

4. When the putative father does not sign a sworn statement of paternity or does not voluntarily submit to blood testing or the blood test shows less than a 98% probability of paternity, the department shall petition the court for a paternity determination when there is sufficient evidence to do so.

5. Within 90 calendar days of locating the putative father, the department shall:

a. Obtain a sworn acknowledgement of paternity or arrange for voluntary blood testing, or

b. File a petition with the court for paternity establishment.

6. In any case where more than one putative father has been identified, the department shall pursue paternity for all putative fathers.

7. The department shall track all cases in which paternity must be established to assure that, in all cases where the putative father is located, paternity is established or the putative father excluded within one year of the child reaching six months of age or within one year of petitioning the court for paternity, whichever occurs later.

§ 4.2. Establishing paternity in interstate cases.

The department shall establish, if possible, the paternity of children who do not reside in Virginia when the putative father resides in Virginia and a request for such services is received from another state IV-D agency.

Article 2. Administrative Support Orders.

§ 4.3. Administrative establishment of a child support obligation.

The department has statutory authority to establish child support obligations through noncourt ordered legally enforceable administrative means. These administrative obligations have the same force and effect as a support obligation established by the court.

A. The amount of child support that is owed and the frequency with which it is paid must be established before the payment of child support can be enforced.

B. The administrative order shall be called the Administrative Support Order.

C. The department shall use administrative rather than judicial means to establish the child support obligation whenever possible.

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D. The department shall use administrative means to establish a temporary child support obligation when judicial determinations of support are pending due to custody and visitation issues.

E. Within 90 calendar days of locating the absent responsible parent, or of establishing paternity the department shall attempt to either ensure that a child support obligation is established or shall diligently attempt to complete the service of process necessary for an obligation to be ordered.

F. When a court dismisses a petition for a support order without prejudice or an administrative hearings officer overrules an administrative support action, the department shall examine the reasons for the dismissal or overruling and determine when or if it would be appropriate to seek an order in the future.

G. The child support obligation is established when an Administrative Support Order has been served and the 10-day appeal period for the administrative order has elapsed.

H. The department shall modify the obligation when new information is received necessitating a change.

I. The department shall modify the amount of the obligation for future child support payments only.

§ 4.4. Determining the amount of the child support obligation.

A. The obligation shall include:

1. Frequency with which the current amount owed is to be paid,
2. Current amount owed,
3. Public assistance debt, if any, and
4. Unpaid past due child support, if any.

B. Financial statements.

1. The department shall use financial statements obtained from the absent responsible parent and the custodial parent to determine the amount of the child support obligation.
2. The absent responsible parent and custodial parent shall complete financial statements upon demand by the department and annually thereafter. Such responsible parties shall certify under penalty of perjury the correctness of the statement.
3. If the custodial parent is a recipient of public assistance, the department shall use the information obtained through the ADC or ADC/FC eligibility process to meet the financial statement requirement.

4. The department shall define the type of financial information which shall be required based on § 63.1-274.5 of the Code of Virginia which is incorporated by reference.

5. A custodial parent who is not a responsible parent of the child for whom child support is being sought shall not be required to complete a financial statement.

6. The department shall obtain financial statements from both absent responsible parents when the custodial parent is not a responsible parent of the child.

C. When an absent parent is responsible for the support of children receiving ADC or ADC/FC assistance, the department shall initially base the amount of the obligation on the amount of ADC or ADC/FC paid on behalf of the responsible parent's dependents.

1. The department shall change the proposed obligation amount and base it on the child support scale if the absent responsible parent provides financial information during the pendency of an administrative appeal.

2. If the department receives financial information after the obligation is established, the department shall modify the Administrative Support Order prospectively and shall base the future obligation amount on the child support scale.

D. When the absent parent is responsible for the support of children not receiving ADC or ADC/FC and provides a financial statement, the department shall base the amount of the obligation on the child support scale.

1. If the responsible parent does not provide a financial statement and there is no court order and no previously issued administrative order, the department shall issue a default Administrative Support Order.

2. The default administrative order shall be based on the amount of public assistance that would be paid on behalf of the absent responsible parent's dependents if they were eligible for ADC assistance.

E. The department shall determine the amount to be paid monthly toward a child support debt when the obligation is administratively ordered and when a court ordered obligation for support does not specify the amount to be paid toward the debt. The monthly payment for arrears will be \$65 or 25% of the current obligation, whichever is greater, and shall not exceed the amount allowed under the Consumer Credit Protection Act.

§ 4.5. Service of the administrative support order.

The department must legally serve the Administrative Support Order on the absent responsible parent or receive

a waiver of service from the responsible parent in order to have an established obligation.

§ 4.6. Health care coverage.

A. The department shall have the authority to issue orders requiring provisions of health care coverage for the dependent children of absent responsible parents if the coverage is available at reasonable cost as defined in § 63.1-250.1 of the Code of Virginia.

B. The absent responsible parent shall provide information regarding health care coverage for his dependent children, and his spouse or former spouse if applicable, upon request from the department.

C. The absent responsible parent shall provide health care coverage for the child or children if medical insurance is available through his employment. The department may enter an administrative order or seek a judicial order requiring the absent responsible parent's employer to enroll the dependent children in a group health insurance plan or other similar plan providing health care services or coverage offered by the employer as provided in § 20-79.3 of the Code of Virginia.

§ 4.7. Child support scale.

A. The department is required to use the Schedule of Monthly Basic Child Support Obligations and procedures in § 20-108.2 of the Code of Virginia in calculating the amount of administrative child support obligations. This section of the Code is incorporated by reference.

B. The department shall call this schedule the child support scale.

C. The department shall use the scale in establishing Administrative Support Orders except in the two situations identified in § 4.4 C and D 1.

D. The total child support obligation will be divided between both parents in the same proportion as their individual gross incomes bear to their combined gross income.

E. The department shall consider the following factors in calculating the combined gross income:

1. The absent responsible parent and custodial parent's gross monthly income from all sources with the exception noted in subsection F of this section,
2. The number of children for whom the absent responsible parent and custodial parent share joint legal responsibility,
3. Extraordinary medical and dental expenses which are defined in § 20-108.2 of the Code of Virginia, and
4. The custodial parent's work related child care

expenses.

F. The department may not include benefits from public assistance programs as defined in § 63.1-87, Supplemental Security Income, or child support received in calculating the combined gross income.

§ 4.8. Periodic reviews of the child support obligation.

The amount of the child support obligation is based on the financial situation of both parents. The department or the courts, depending on who issued the order, may modify the amount of the obligation if the parents' situation changes. Either the department or either parent may initiate a review of the amount of the child support obligation.

A. The department shall initiate a review of each child support obligation as required by federal regulations.

B. Either parent may initiate a review of the child support obligation by providing documentation of a change in circumstances potentially affecting the child support obligation.

C. The department shall modify an administrative obligation when the results of the review indicate a change in the gross income of either parent which is a difference of at least 10% in either parent's gross monthly income or a change in the monthly obligation of at least \$25.

D. The department shall petition to modify a court ordered obligation based on criteria established by the court.

PART V. ENFORCING CHILD SUPPORT OBLIGATIONS.

Article 1. General.

§ 5.1. Enforcement rules.

A. The department shall, whenever possible, administratively enforce compliance with established child support orders including both administrative and court orders.

B. The department shall enforce child support obligations at the time the Administrative Support Order is initially entered through the use of one of the following methods of wage withholdings:

1. Immediate withholding of earnings
2. Voluntary assignment of earnings

C. The department shall enforce child support obligations when the obligation becomes delinquent through the use of one or more of the following administrative enforcement

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remedies:

1. Mandatory withholding of earnings
2. Liens
3. Orders to withhold and deliver
4. Foreclosure
5. Distraint, seizure, and sale
6. Unemployment compensation benefits intercept
7. Bonds, securities, and guarantees
8. Tax intercept
9. Internal Revenue Service full collection service
10. Credit bureau reporting
11. Enforcement remedies for federal employees.

D. The department shall attempt to enforce current and delinquent child support payments through administrative means before petitioning the court for enforcement action unless it determines that court action is more appropriate.

E. The department shall take any appropriate enforcement action, unless service of process is necessary, within no more than 30 calendar days of identifying a delinquency or of locating that absent responsible parent, whichever occurs later, except income withholding and federal and state income tax refund offset.

F. The department shall take appropriate enforcement action if service of process is necessary within 60 calendar days of identifying a delinquency or of locating the absent responsible parent, whichever occurs later.

G. The department shall take appropriate enforcement action within the above timeframes to enforce health care coverage.

H. When an enforcement action is unsuccessful, the department shall examine the reason(s) and determine when it would be appropriate to take an enforcement action in the future. The department shall take further enforcement action at a time and in a manner determined appropriate by department staff.

§ 5.2. Withholding of earnings rules.

A. The department may issue a withholding of earnings order against all earnings except those exempted from garnishment under federal and state law.

B. The amount of money withheld from earnings may not be more than the amount allowed under the Consumer Credit Protection Act. (§ 34-29 of the Code of Virginia)

C. The department must legally serve the wage withholding order on the absent responsible parent or receive a waiver of service from the individual.

D. The department shall modify the withholding of earnings order only if there is a change in the amount of the current support or past due debt.

E. The department shall release the withholding of earnings order only if one of the following occurs:

1. The current support obligation terminates and any past due debt is paid in full;
2. Only a past due debt is owed and it is paid in full;
3. The whereabouts of the child or child and caretaker become unknown;
4. Bankruptcy laws require release; or
5. A nonpublic assistance client no longer wants the services of the department.

Article 2.

Immediate and Voluntary Withholding of Earnings.

§ 5.3. General.

The Administrative Support Order shall include a requirement for immediate withholding of the child support obligation from the absent responsible parent's earnings. The custodial parent and absent responsible parent may choose a voluntary assignment of earnings as an alternate arrangement for payment of child support.

§ 5.4. Immediate withholding of earnings.

The Administrative Support Order shall include a requirement for immediate withholding of the child support obligation from the absent responsible parent's earning unless the absent responsible parent and the department, on behalf of the custodial parent, agree to an alternative arrangement, or good cause is shown.

§ 5.5. Voluntary withholding of earnings.

A. Voluntary withholding of earnings is also called voluntary assignment of earnings.

B. The custodial parent and absent responsible parent may choose a voluntary assignment of earnings at the time the obligation is established as an alternate to immediate withholding of earnings for payment of child support.

C. The department may initiate a voluntary assignment of earnings when it is the most expeditious means of enforcing a wage withholding.

D. The absent responsible parent may not choose a

voluntary assignment of earnings as an alternative to mandatory withholding of earnings after enforcement action has been initiated.

Article 3. Other Enforcement Remedies.

The department shall have the authority to administratively collect delinquent child support payments from absent responsible parents. These are called enforcement remedies.

§ 5.6. Mandatory withholding of earnings.

The department shall send a Mandatory Withholding of Earnings order to an employer requiring the deduction of the child support obligation from the absent responsible parent's earnings ~~when~~ *under the following circumstances:*

1. *When a payment is delinquent in an amount equal to or exceeding one month's child support obligation - , or*
2. *When the custodial parent requests that withholding begin regardless of whether support payments are in arrears.*

§ 5.7. Liens.

A. The department may file a lien on the real or personal property of the absent responsible parent when there is a support debt.

B. Upon receipt of a support order from a jurisdiction outside of Virginia, the department may immediately file a lien.

C. The lien of the department shall have the priority of a secured creditor.

D. The lien of the department shall be subordinate to the lien of any prior mortgagee.

E. The lien shall be released when the child support debt has been paid in full.

§ 5.8. Orders to withhold and deliver.

A. The department may use orders to withhold and deliver to collect assets such as bank accounts, trust funds, stocks, bonds, and other types of financial holdings when there is a support debt.

B. The department shall release the order to withhold when the order cannot be served on the absent responsible parent.

C. The department shall release the order to deliver when:

1. The debt on the order is paid, or

2. The absent responsible parent makes satisfactory alternate arrangements for paying the full amount of the debt.

§ 5.9. Dstraint, seizure, and sale.

A. The department may use dstraint, seizure, and sale against the real or personal property of an absent responsible parent when there is a support debt.

B. The director of the division shall give final approval for the use of dstraint, seizure, and sale.

§ 5.10. Unemployment compensation benefits intercept.

A. The department may intercept unemployment compensation benefits when there is a support debt.

B. The department may, with the consent of the absent responsible parent, intercept unemployment compensation benefits when there is not a support debt.

C. The department may intercept unemployment compensation benefits paid by the Commonwealth to an absent responsible parent who lives out of state.

D. The department shall intercept the amount of benefits allowed by the Virginia Employment Commission.

§ 5.11. Bonds, securities, and guarantees.

The department shall use administrative bonds, securities, and guarantees as an enforcement action only if the amount of the delinquency exceeds \$1,000 and

1. After all other enforcement actions fail, or
2. When no other enforcement actions are feasible.

§ 5.12. Tax intercept.

A. The department shall intercept state and federal income tax refunds and shall apply these moneys, in whole or in part, first to any debt to the Commonwealth and second to delinquent child support obligations.

B. The Virginia Department of Taxation prescribes rules for interception of state tax refunds and notification to the person whose tax refund is being intercepted.

1. The department may retain moneys up to the amount owed on the due date of the finalization notice from the department to the Virginia Department of Taxation.
2. The department may intercept state tax refunds when the delinquent amount equals at least \$25.
3. The department may not disburse the intercepted taxes if the absent responsible parent has appealed the intercept action and the appeal is pending.

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4. The department shall issue a refund to the absent responsible parent when one of the following occurs:

- a. The intercept was made in error.
- b. The absent responsible parent pays the delinquent amount in full after the Department of Taxation has been notified of the delinquency and before the tax refund is intercepted.
- c. Either or both federal and state tax refunds are intercepted, the total amount intercepted is more than the amount of the delinquency at the time that notification of the tax intercept was sent to the Department of Taxation, and the absent responsible parent does not agree to allow the department to apply the excess funds to any delinquency that accrued after certification for tax intercept.

C. The Internal Revenue Service has prescribed rules regarding the interception of federal tax refunds. Part 45, §§ 302.60 and 303.72 of the Code of Federal Regulations are incorporated by reference in this regulation.

Article 4. Federal Enforcement Remedies.

In addition to state administrative enforcement remedies, the department shall use federal enforcement remedies to enforce child support obligations.

§ 5.13. Internal Revenue Service full collection service.

A. The department may ask the Internal Revenue Service to collect delinquent child support payments when all reasonable efforts to collect past due child support payments have been made but have not been successful.

B. The department shall make this request through the federal Office of Child Support Enforcement.

§ 5.14. Enforcement remedies to be used against federal employees.

A. The department may apply its enforcement remedies against United States military and civilian active and retired personnel.

B. When enforcement under Virginia law is not possible, the department may use (i) Mandatory Military Allotments and (ii) Involuntary Child Support Allotments for Public Health Services Employees to enforce child support obligations of active military personnel and public health services employees.

1. For the purposes of these two enforcement actions, delinquency shall be defined as failure of the absent responsible parent to make child support payments equal to the amount due for two months.
2. The amount of money withheld from these wages

shall be up to the amount allowed under the Consumer Credit Protection Act.

PART VI. ADMINISTRATIVE APPEALS.

Actions to establish and enforce child support obligations administratively may be appealed according to the following rules.

§ 6.1. Validity of the appeal.

A. The department shall determine the validity of an appeal.

1. The appeal must be in writing.
2. The appeal must be received within 10 working days of service when personally delivered.
3. If mailed, the postmark must be no later than 10 working days from the date of service of the notice of proposed action.

B. The only exception to this shall be appeals of federal and state tax intercepts. The absent responsible parent shall have 30 days to appeal a tax intercept notice to the department.

§ 6.2. General rules.

A. The appeal shall be heard by a hearings officer.

1. The hearings officer shall hold the hearing in the district office where the custodial parent resides unless another location is requested by the absent responsible parent and it complies with § 63.1-267.1 of the Code of Virginia.
2. The absent responsible parent and the custodial parent may be represented at the hearing by legal counsel.
3. The absent responsible parent may withdraw the appeal at any time.
4. The hearings officer shall accept a request for a continuance from the absent responsible parent or the custodial parent if:

- a. The request is made in writing at least five working days prior to the hearing, and
- b. The request is for not more than a 10-day continuance.

B. The hearings officer shall notify the absent responsible parent and custodial parent of the date and time of the hearing and of the disposition of the hearing in accordance with § 63.1-267.1 of the Code of Virginia.

C. Prior to the hearing, the hearings officer shall send the absent responsible parent and the custodial parent a copy of the Summary of Facts prepared by the district office.

D. The hearings officer shall provide the absent responsible parent and the custodial parent with a copy of the hearing decision either at the time of the hearing or no later than 45 days from the date the appeal request was first received by the department.

E. The hearings officer shall notify the absent responsible parent and the custodial parent in writing by certified mail if the appeal is determined to be abandoned because the absent responsible parent did not appear at the hearing.

F. The absent responsible parent or the custodial parent may appeal the hearings officer's decision to the juvenile and domestic relations district court within 10 calendar days of receipt of the hearings officer's decision. An appeal of a tax intercept must be made to the circuit court within 30 days of the date of the hearings officer's decision.

§ 6.3. Appeal of enforcement actions.

A. The absent responsible parent may appeal the actions of the department to enforce a support obligation only under the following conditions:

1. For withholding of earnings; liens; distraint, seizure, and sale; and unemployment compensation benefits intercept the appeal shall be based only on a mistake of fact.
2. For orders to withhold and deliver the appeal shall be based only on (i) a mistake of fact or (ii) whether the funds to be withheld are exempt by law from garnishment.
3. Federal and state tax intercepts may be appealed based only on (i) a mistake of fact or (ii) the validity of the claim.

B. A mistake of fact is based on:

1. An error in the identity of the absent responsible parent, or
2. An error in the amount of current support or past due support.

§ 6.4. Appeal of federal enforcement remedies.

Actions to enforce child support payments through federal enforcement remedies may not be appealed through the Department of Social Services. Absent responsible parents shall appeal these actions to the federal agency which took the action.

PART VII. INTERSTATE RESPONSIBILITIES.

When the absent responsible parent and the custodial parent reside in different states, cooperation between these states is necessary.

§ 7.1. Cooperation with other state IV-D agencies.

A. The department shall provide the same services to other state IV-D cases that it provides to its own cases with the following conditions:

1. The request for services must be in writing.
2. The request for services must list the specific services needed.

B. The department shall request in writing the services of other state IV-D agencies when the custodial parent resides in Virginia, but the absent responsible parent resides in another state.

C. Other department responsibilities in providing services to other state IV-D cases and obtaining services from other state IV-D agencies are defined in Part 45, § 303.7 of the Code of Federal Regulations and §§ 63.1-274.6 and 20-88.22 of the Code of Virginia. These regulations are incorporated by reference here.

§ 7.2. Central registry.

A. The department shall manage the flow of interstate correspondence through a Central Registry located in the division's central office. Correspondence will be handled according to the rules established by the state and federal regulations cited by reference above.

B. The Central Registry shall act as the Uniform Reciprocal Enforcement of Support Act State Information Agent required by § 20-88.22 of the Code of Virginia.

PART VIII. CONFIDENTIALITY AND EXCHANGE OF INFORMATION.

Article 1. Information Collected by the Department.

§ 8.1. Information collected from state, county, and city offices.

A. State, county, and city offices and agencies shall provide the department with information about absent responsible parents.

B. The department shall use this information to locate and collect child support payments from absent responsible parents.

§ 8.2. Subpoena of financial information.

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The department may subpoena financial records from a person, firm, corporation, association, political subdivision, or state agency to corroborate the existence of assets of the absent responsible parent or the custodial parent identified by the Internal Revenue Service.

Article 2.

Information Released by the Department.

§ 8.3. Agencies to whom the department releases information.

A. The department may release information on absent responsible parents to courts and other state child support agencies.

B. The department shall release information concerning the absent responsible parent to consumer credit agencies upon their request.

C. The department may release information concerning custodial parents to courts and other state IV-D agencies as necessary to collect child support on their behalf.

D. The department shall obtain permission from the absent responsible parent or the custodial parent prior to providing information on that person to an entity other than the ones listed above.

E. The department shall release information concerning custodial parents' and absent responsible parents' medical support payments and medical support orders to the Department of Medical Assistance Services.

§ 8.4. Release of information to and from the Internal Revenue Service.

A. The department may not release information provided by the Internal Revenue Service to anyone outside of the department with the following exceptions:

1. The department may release the information to local social service agencies and the courts, but the source of the information may not be released.

2. The department may release information provided by the Internal Revenue Service if that information is verified by a source independent of the IRS.

B. The division director, or a designee, may release information on absent responsible parents to the Internal Revenue Service.

§ 8.5. Request for information from the general public.

The department shall answer requests for information from the general public within five working days of receipt of the request or less as federal and state law may require.

§ 8.6. Requests for information from absent responsible

parents and the custodial parents.

A. The department shall release, upon request from the absent responsible parent or custodial parent, copies of court orders, administrative orders, enforcement actions, and fiscal records.

B. The department shall release to the absent responsible parent and to the custodial parent personal information contained in the case record which pertains to the individual requesting the information with one exception. The department may not release medical or psychological information for which the physician providing the information has stated the individual should not have access.

C. The absent responsible parent and the custodial parent may correct, challenge, or explain the personal information which pertains to that individual.

D. The department shall charge a fee for copying case record information. The department shall base the fee on the cost of copying the material.

§ 8.7. Release of health care information.

The department shall provide specific third party liability information to the Department of Medical Assistance Services in order for that agency to pursue the absent responsible parent's medical provider for any Medicaid funds expended for his dependents who are receiving ADC or ADC/FC or who are Medicaid-only clients.

A. The department shall release health care coverage information on ADC, ADC/FC, and Medicaid only cases to the Department of Medical Assistance Services as prescribed in the cooperative agreement between the department and that agency.

B. The department shall release health care coverage information on ADC, ADC/FC, and Medicaid only cases to other state child support agencies upon their request.

C. The department shall release information on health care coverage for nonpublic assistance cases only with the consent of the custodial parent.

PART IX. RIGHTS AND RESPONSIBILITIES OF THE CUSTODIAL PARENT AND OF THE DEPARTMENT.

Article 1. Custodial Parent's Rights and Responsibilities.

Throughout this regulation rights and responsibilities of the custodial parents are mentioned in general terms. This section of the regulation does not abridge those rights and responsibilities; it adds to them.

§ 9.1. Custodial parents rights.

A. The department shall give the custodial parent prior notice of major decisions about the child support case.

B. The department shall periodically inform the custodial parent of the progress of the case.

C. The department shall provide the custodial parent with copies of appropriate notices as identified in this regulation.

D. The department shall advise custodial parents who receive ADC of the following rights:

1. The \$50 disregard payments, and

2. Eligibility for continued Medicaid coverage when ADC is no longer received ; and .

~~3. Eligibility~~ E. The department shall advise parents who receive ADC, ADC/FC, and Medicaid only of their eligibility for continued child support services when ADC public assistance is no longer received.

~~E. F.~~ The department shall inform all non-ADC or ADC/FC clients at the time of application for services of the effect of past receipt of ADC or ADC/FC on the collection of child support payments.

§ 9.2. Custodial parent's responsibilities.

A. Custodial parents must give full and complete information, if known, regarding the absent responsible parent's name, address, social security number, current employment, and employment history and provide new information when learned.

B. Custodial parents must inform the department of any public assistance which was received in the past on behalf of the parent and children.

C. Custodial parents must promptly (i) inform the department of any divorce actions or court actions to establish a child support order, (ii) send to the department copies of any legal documents pertaining to divorce, support, or custody, and (iii) inform the department of any changes in custody or plans for reconciliation with the absent responsible parent.

D. Custodial parents must notify the department if an attorney is hired to handle a child support matter.

E. Custodial parents must notify the department immediately of any change in their financial circumstances.

F. Custodial parents must notify the department in writing regarding any change of their address or name. When possible, the custodial parent shall give this notification 30 days in advance.

Article 2.

Department's Rights and Responsibilities.

§ 9.3. Department's rights.

A. The department shall decide, in a manner consistent with state and federal requirements, the best way to handle a child support case.

B. The department shall decide when to close a case based on federal requirements and the criteria in Part XI.

§ 9.4. Department's responsibilities.

A. The department shall act in a manner consistent with the best interests of the child.

B. The department shall establish a priority system for providing services which will ensure that services are provided in a timely manner.

C. The department shall keep custodial parents advised about the progress of the child support cases and shall include custodial parents in major decisions made about the handling of the child support case.

PART X.

PROCESSING SUPPORT PAYMENTS.

Article 1.

Child Support and Medical Support Payments.

§ 10.1. Disbursement of child support payments.

A. An absent responsible parent may have multiple child support obligations.

1. Each case shall receive full payment of the current obligation when possible.

2. If the absent responsible parent's disposable earnings do not cover the full payment for each current support order, the department shall prorate the amount withheld among all orders.

B. Current support obligations shall be satisfied before satisfying a past due debt.

C. The method by which child support and medical support payments are disbursed is governed by Part 45, §§ 302.51 and 302.52 of the Code of Federal Regulations which are incorporated by reference.

Article 2.

Payment Recovery.

§ 10.2. Bad checks.

A. When a payment made by an employer or absent responsible parent is not honored upon presentation to the bank on which it was drawn, the department shall first

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demand payment from the employer or absent responsible parent.

B. If the employer or absent responsible parent does not comply with the demand and the custodial parent is not an ADC or ADC/FC recipient, the department shall recover the payment from the custodial parent according to the methods described in § 10.4.

C. The department shall concurrently take enforcement action against the absent parent or legal action against the employer.

D. If a check received from a custodial parent is not honored upon presentation to the bank upon which it was drawn, the department shall demand payment from the custodial parent.

§ 10.3. Erroneous/duplicate disbursements.

A. When the department sends the custodial parent a payment in error or a duplicate payment, the department shall first demand payment from the custodial parent.

B. If the custodial parent is not an ADC or ADC/FC recipient and does not comply with the demand, the department shall recover the amount of the payment according to the methods described in § 10.4.

§ 10.4. Methods of payment recovery from the custodial parent.

A. If the custodial parent is not an ADC or ADC/FC recipient, the department shall:

1. Intercept and retain payments for past due debt.
2. Retain 10% of the current support payment.
3. Retain the lesser of the balance due or 100% of any intercepted funds.
4. Retain the lesser of the balance due or funds seized from bank accounts.

B. If the custodial parent is an ADC or ADC/FC recipient, the division shall notify the Division of Benefit Programs when an erroneous or duplicate payment has been retained by the client.

PART XI. CASE CLOSURE.

§ 11.1. General rules.

A. The department shall terminate child support enforcement services when one of the criteria defined in the Code of Federal Regulations, Title 45, § 303.11 is met.

B. Sixty calendar days prior to closing a case, the department shall notify the custodial parent of its intent to

close the case and shall give the reason for the case closure with the exceptions noted in the Code of Federal Regulations, Title 45, § 303.11. The department shall not close the case if the custodial parent supplies additional case information.

C. The department shall continue to provide collection and disbursement services until alternate arrangement for these services has been made.

D. The department shall reopen a closed case if the custodial parent requests the case be reopened because there is a change in circumstance which could lead to the establishment or enforcement of a child support obligation.

E. The department shall purge all closed case records three years after the case is closed pursuant to the Code of Federal Regulations, Title 45, part 74, subpart D.

PART XII. COST RECOVERY.

Article 1. General.

§ 12.1. Recovery of fees.

The department shall assess and recover from the absent responsible parent using any mechanism provided in Chapter 13 of Title 63.1:

1. Attorney's fees,
2. Genetic blood testing fees, and
3. Intercept programs' costs.

§ 12.2. Attorney's fees.

A. Attorney fees shall not exceed the amount allowed court-appointed counsel in the district courts pursuant to subdivision 1 of § 19.2-163.

B. The department shall not recover attorneys' fees or costs in any case in which the absent responsible parent prevails.

§ 12.3. Genetic blood testing.

The department shall set the costs of the genetic blood testing at the rate charged the department by the provider of genetic blood testing services.

§ 12.4. Intercept programs.

The department shall charge the absent responsible parent the rate actually charged the department.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

710 CARRIAGE STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

October 31, 1991

Mr. Larry D. Jackson, Commissioner
Department of Social Services
8007 Discovery Drive
Richmond, Virginia 23229

Re: VR 615-70-17 - Child Support Enforcement

Dear Mr. Jackson:

This will acknowledge receipt of the above-referenced regulations from the Department of Social Services.

As required by § 9-6.14:4.1 C.4.(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,


Joan W. Smith
Registrar of Regulations

JWS:jbc



Commonwealth of Virginia
Department of Social Services
Division of Child Support Enforcement

RP Name _____
RP SSN _____
Case ID# _____

APPLICATION FOR CHILD SUPPORT ENFORCEMENT SERVICES

I, _____, Social Security number _____ am applying to the Division of Child Support Enforcement for child support enforcement services for the following children:

Children's Name	Date of Birth	Relationship
_____	_____	_____
_____	_____	_____
_____	_____	_____

The services I am applying for include:

- Location of the Responsible Parent to obtain child support (if the whereabouts are unknown)
- Obtaining an acknowledgment of paternity (if not already established)
- Establishing child support obligations
- Enforcing and collecting a child support obligation

I authorize the Division of Child Support Enforcement (DCSE) to explore, pursue, and utilize all sources of information available in support of its investigation. I understand that, depending on the information I provide (including, but not limited to, the Responsible Parent's SSN, address and employer), the DCSE will assign a priority level to my case. I understand that the DCSE cannot guarantee the success of its efforts.

I understand that legal assistance may be provided in establishing or enforcing a child support obligation. I acknowledge that any legal assistance which may be provided by the Office of the Attorney General, any office of a Commonwealth's Attorney or otherwise is being provided to the Division of Child Support Enforcement, and not to me personally. A final decision concerning any legal action which may be taken in my case shall be made by the Division, and the Division shall advise me of action they have decided to take. I further acknowledge that I am aware of my right to secure the services of my own attorney to represent me personally at any time. If I choose to retain the services of a private attorney, I will notify the Division immediately.

I authorize the Division of Child Support Enforcement to seek, enforce, and collect for me and my children current or past due support from anyone who has a legal duty to support me and my children.

I authorize the Division of Child Support Enforcement to endorse and cash checks, money orders, or other forms of payment which are made out to me for support payments.

I authorize the Division of Child Support Enforcement to give receipts for any payment collected.

Applicant's Name (Print) _____ Address _____

Applicant's Signature _____

Date _____ Telephone _____

SUPPORT ENFORCEMENT SERVICES

Local, state and federal resources are used to obtain the Responsible Parent's address to enforce a child support order. The Division of Child Support Enforcement will try to obtain an acknowledgment of paternity or consent if paternity has not already been established. When paternity is established, a support obligation will be sought either administratively or through the court. After the obligation is established, support payments will be collected and monitored. If payments become irregular or stop, the support obligation will be enforced through a number of enforcement remedies. Some of these are listed below:

- Immediate or Mandatory Withholdings of Earnings - an automatic withholding of earnings and wages when the order is initiated or when the support payment is delinquent in an amount equal to one month's support payment.
- State Tax Refund Intercept - State tax refunds are intercepted to pay off child support debts (note: if there is a debt owed to the State for public assistance paid, this debt is satisfied first).
- Federal Tax Refund Intercept - Federal tax refunds are intercepted to pay off child support debts. You should be aware of the following:
 - If tax intercept involves a joint return, the tax intercept will not be distributed for 6 months after it is received.
 - If there is a debt owed to the State for public assistance paid, this debt is satisfied first.
 - Any payment the family receives may have to be returned to DCSE if there is an adjustment within 3 years following the end of the tax year.

These are only a few of the enforcement remedies available and they may not apply in your situation. Your child support officer will initiate remedies that are appropriate to secure your child support. Payment and will discuss them with you.

92-11-311/3

Final Regulations

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

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

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

Effective Date: December 18, 1991.

Summary:

The regulations affect approximately 4,000 waterworks and wastewater works operators in the Commonwealth of Virginia who operate waterworks and wastewater works treatment plants. The regulations have been reorganized to clarify sections covering requirements for experience and education and some sections were reworded to clarify specific requirements. Additional requirements were added for the Class V operator and for those individuals who wish to obtain approval for various specialized operator training courses.

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

PART I. DEFINITIONS, LICENSING AND CLASSIFICATION REQUIREMENTS.

§ 1.1. Definitions.

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

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

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

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

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

"Operator" means any individual employed or appointed by any owner, and who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control waterworks or

wastewater works operations. Not included in this definition are superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks or wastewater works.

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

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

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

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

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

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

§ 1.2. License required.

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

§ 1.3. License renewal required.

A. Licenses for waterworks operators shall expire on the last day of February of each odd-numbered year. Licenses for wastewater works operators shall expire on the last day of February of each even-numbered year. The Department of Commerce shall mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice shall not relieve the licensee of the obligation to renew.

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

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

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

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

§ 1.4. Fees.

A. Fees are nonrefundable and shall not be prorated.

B. The following fees shall apply:

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

§ 1.5. Waterworks.

A. Class V shall mean any waterworks as follows:

- 1. Waterworks employing no treatment other than chlorine disinfection, including consecutive water systems or groundwater systems with no treatment or consecutive systems employing repumping or rechlorination or both, and classified by the Department of Health as public water supplies; or
- 2. Waterworks classified by the Department of Health as Class V waterworks.

B. Class IV shall mean any waterworks as follows:

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

C. Class III shall mean any waterworks as follows:

- 1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration other than slow sand filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of less than 5,000, or having a rated capacity of less than 0.5 mgd; or
- 2. Waterworks employing processes including disinfection, corrosion control, iron and manganese removal, softening, rechlorination, and other approved methods of treatment serving 5,000 persons or more; or
- 3. Waterworks employing fluoridation which are not under a higher classification and which are classified by the Department of Health as public water supplies; or
- 4. Waterworks classified by the Department of Health as Class III facilities waterworks .

D. Class II shall mean any waterworks as follows:

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

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2.0 gpm/sq. ft., serving a population less than 50,000 persons, or having a rated capacity less than 5.0 mgd; or

3. Waterworks classified by the Department of Health as Class II facilities *waterworks*.

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

§ 1.6. Wastewater works.

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

1. Raw sewage stabilization ponds with a design hydraulic capacity greater than 0.04 mgd but equal to or less than 1.0 mgd; or

2. Wastewater works classified by the State Water Control Board as Class IV wastewater works.

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

1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.5 mgd; or

2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.5 mgd; or

3. Wastewater works using combinations of biological and physical/chemical treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.1 mgd; or

4. Raw sewage stabilization ponds, with a design hydraulic capacity greater than 1.0 mgd; or

5. Wastewater works that do not use biological or physical/chemical treatment methods but are classified by the State Water Control Board as Class III wastewater works.

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

1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or

2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or

3. Wastewater works using combinations of biological and physical/chemical treatment methods, having a design hydraulic capacity greater than 0.1 mgd, but

equal to or less than 2.5 mgd.

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

1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 5.0 mgd; or

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

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

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

1. Activated sludge.

2. Trickling filter.

3. Aerated lagoon.

4. Rotating biological contactor.

5. Land application.

6. Biological nutrient removal process.

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

1. Chemical coagulation, flocculation and precipitation.

2. Filtration.

3. Carbon adsorption.

4. Breakpoint chlorination.

5. Demineralization (including but not limited to ion exchange, reverse osmosis, electrodialysis).

PART II. ENTRY REQUIREMENTS.

§ 2.1. Licensure.

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

§ 2.2. Licensure by reciprocity.

The board may issue a license to any person holding a

currently valid license or certificate in any state, territory, or possession of the United States, or in any foreign country, or a certificate issued by the Association of Boards of Certification, provided the requirements and standards under which the license or certificate was issued are equivalent to those established by these regulations.

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

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

The education and experience requirements are summarized in Table 1.

A. Experience.

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

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

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

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

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

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

license.

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

License Class	Education ¹	Current License	Minimum Total Experience Required (Years)	Experience must be at this class facility or higher (Years)				Maximum Substitution Permitted (Years)
				Cl. V	Cl. IV	Cl. III	Cl. II	
V	BS Degree	None	0.5	0.5			0.0	
	High School	None	0.5	0.5			0.0	
	None	None	1.0	1.0			0.0	
IV	BS degree	None	0.5	0.5			0.0	
	High School	None	0.5	0.5			0.0	
	None	None	1.0	1.0			0.0	
III	BS degree	None	1.0	1.0			0.0	
		IV	1.0	1.0			0.0	
	High School	None	2.0	2.0			1.0	
		IV	2.0	2.0			1.0	
	None	IV	4.0	4.0			2.0	
		III	4.0	4.0			2.0	
II	BS degree	None	1.5	1.5	1-20.5		0.0	
		IV	1.5	1.5	1-20.5		0.0	
		III	1.5	1.5	1-5	0.5	1.0	
	High School	III	4.0	4.0	2-3	2-3	2-3	
		II	4.0	4.0	4-8	3-8	3-5	
I	BS degree	III	2.5	2.5	1-5	1.0	0.0	
		IV	2.5	2.5	1-5	1-5	0.0	
		III	2.5	2.5	1-5	1-5	0.0	
	High School	II	6.0	6.0	2-5	2-5	2-5	
		I	10.0	10.0	4-5	3-5	5-7	

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

1 BS degree = bachelor's degree in civil, environmental or sanitary engineering; or engineering technology; or in physical, biological, or chemical science or engineering with at least 3 semester hours in water and/or wastewater treatment technology; or both. All other bachelor's degrees will be considered the equivalent of high school education for the purpose of meeting the education requirement, although individual courses in science, engineering, or public health may be substitutes for experience in accordance with § 2.3.2.

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

2 First license was Class III.

3 First license was Class III.

4 First license was Class IV.

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

B. Specific requirements for licenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. *c.* Have (i) no high school diploma, (ii) a Class II license, and (iii) at least three years of experience a total of at least 10 years of experience of which at least three years without substitutions shall be as an operator or operator-in-training of waterworks or wastewater works of Class II or higher as an operator-in-training of waterworks or wastewater works of Class I.

§ 2.4. Education.

Education may be substituted for experience as follows:

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

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

C. Specialized training.

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

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

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

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

D. Formal education.

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

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

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

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

§ 2.5. Experience.

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

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

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

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

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

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C. Substitutions for required experience.

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

1. Limitations on substitution.

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

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

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

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

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

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

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

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

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

c. Specialized training. Waterworks or wastewater works operator training courses, seminars, workshops, or similar specialized training,

specifically approved by the board, may be substituted for part of the required experience.

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

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

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

§ 2.6. D. Examination.

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

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

B. 2. An individual who is unable to take an examination at the time scheduled shall notify the board prior to the date of the examination; such an individual shall be rescheduled for the next examination. Failure to notify the board may require the submittal of a new application and payment of fees, in accordance with §§ 1.4 and 2.7 A 2.4 A .

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

§ 2.7. § 2.4. Application.

A. Any person seeking licensure by reciprocity or by

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

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

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

PART III STANDARDS OF PRACTICE.

§ 3.1. Discipline.

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

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

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

Appendix A - Approval of Specialized Training

Specialized waterworks and wastewater works operator training may be substituted for some of the experience required for Class III, Class II and Class I licenses, subject to the limitations in this appendix. Training courses that

may be substituted for required experience must be approved by the board prior to the training activity in accordance with the following procedure:

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

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

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

3. Instructors. The board will only approve training conducted by personnel who have demonstrated competence in the subject being taught, an understanding of the learning objective, a knowledge of the learning process to be used, and a proven ability to communicate.

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

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

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

1. Course information.

- a. Course title*
- b. Planned audience*
- c. Name of sponsor*
- d. Name, address, phone number of contact person*
- e. Scheduled presentation dates*

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- f. Detailed course schedule, hour-by-hour
- g. List of planned breaks
- h. Scheduled presentation location
- i. Relevancy of course to waterworks or wastewater works operator licensing

2. Instructor qualifications.

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

3. Training materials.

a. *Course objectives.* A listing of the course objectives stated in the terms of the skills, knowledge, or attitude the participant will be able to demonstrate as a result of the training.

b. *Course outline.* A detailed outline showing the planned activities that will occur during the training program, including major topics, planned presentation sequence, laboratory and field activities, audio-visual presentation, and other major activities.

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

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

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

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

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

identifying the subject matter of the course and the [CEU TC] value, provided to the participant by the sponsor.

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

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

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

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

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

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



Commonwealth of Virginia
Board for Waterworks and Wastewater Works Operators

For Office Use Only	Department of Commerce P.O. Box 11066 Richmond, Virginia 23230-1066 Telephone: 804/367-8554	For Office Use Only
Lic. # _____		Pend # _____
Date _____	Application for Licensure as a Waterworks or Wastewater Works Operator	Fee Amt. _____
Code _____		Class/Fee _____

INSTRUCTIONS:

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

A. General Information

Applying for (circle one):

Waterworks Operator	<input type="checkbox"/> I	<input type="checkbox"/> II	<input type="checkbox"/> III	<input type="checkbox"/> IV	<input type="checkbox"/> V
Wastewater Works Operator	<input type="checkbox"/> I	<input type="checkbox"/> II	<input type="checkbox"/> III	<input type="checkbox"/> IV	

Applying for (check one): Examination Reciprocity

B. Name and Addresses

Name _____

Home Address _____

City _____ State _____ ZIP _____ Phone _____

Present Employer _____

Employer's Address _____

City _____ State _____ ZIP _____ Phone _____

Which address should we use for mailing purposes? Home Employer

C. Identification

Social Security Number _____ (Required for admission to examination)

Date of Birth _____ Place of Birth _____

Operators' licenses presently held:

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

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

High School, Secondary School, or GED program:

Name of school or program _____

City and state _____

Date of graduation/completion _____

Bachelor's degree program*:

Name of institution _____

City and state _____

Major subject _____ Degree _____ Date _____

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

E. Experience

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

Current Employer

Employer: _____

Address: _____

Name of facility: _____

Waterworks Wastewater Works Class: _____

Individual certifying experience: _____
Signature Title Lic. Class Lic. No.

Employment period: From: ___/___/___ To: ___/___/___ Position title: _____

Was this full-time? Yes No - If not full-time, number of hours/week: _____

Duties: _____

Employer: _____

Address: _____

Name of facility: _____

Waterworks Wastewater Works Class: _____

Individual certifying experience: _____
Signature Title Lic. Class Lic. No.

Employment period: From: ___/___/___ To: ___/___/___ Position title: _____

Was this full-time? Yes No - If not full-time, number of hours/week: _____

Duties: _____

Employer: _____

Address: _____

Name of facility: _____

Waterworks Wastewater Works Class: _____

Individual certifying experience: _____
Signature Title Lic. Class Lic. No.

Employment period: From: ___/___/___ To: ___/___/___ Position title: _____

Was this full-time? Yes No - If not full-time, number of hours/week: _____

Duties: _____

F. Substitutions

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

Course Title/Sponsor	Datets) of Attendance	CEUs	OFFICE USE

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

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

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

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

G. Facility description

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

Signature of applicant: _____

Approved and certified by: _____
Immediate Supervisor

Supervisor's Operator License Category, Class, and Number: _____

H. Affidavit

STATE OF _____

CITY/COUNTY OF _____

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

Signature of applicant: _____

Signature of notary public: _____

Subscribed and sworn to before me this _____ day of _____, 19 _____

My commission expires: _____

Final Regulations



Commonwealth of Virginia
Board for Waterworks and Wastewater Works Operators

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

Application for Approval of Waterworks/Wastewater Works Operator Training

INSTRUCTIONS:

Read the regulations of the Board for approval of specialized training (Appendix A) before filling out this application. Submit application to the address shown above. Incomplete applications will be returned.

A. Sponsoring Organization

Name _____

Address _____

City _____ State _____ Zip _____

Contact Person _____ Telephone _____

Area code

Does this organization conform to the guidelines of the Council on the Continuing Education Unit? (See Appendix A, Subsection A). Yes No - Submit explanation of deviations from Council guidelines

B. Training Program

Title _____ Recurring? Yes No

Scheduled date _____ Location _____

Intended audience _____

How does this training program relate to the operation, maintenance or management of waterworks or wastewater works?

Number of hours of instruction:

Lecture	Laboratory	Field Trip	Other (describe)	OFFICE USE

Attach detailed course schedule, hour-by-hour.

C. Training Materials

How will satisfactory completion of this course be measured? (check appropriate boxes and attach examples)

- Skill demonstration Project Oral report or exam
 Written report or exam Other _____

Reference materials to be used: (list title, publisher, publication date or submit copy)

Audio-visual materials to be used: (list title, publisher or source or submit description)

Handouts to be used: (list title and source or submit copies)

D. Instructor

Name _____

Employer & title _____

Qualifications to teach this course _____

E. Attachments

- | <i>Required attachments</i> | <i>Optional attachments</i> |
|---|--|
| <input type="checkbox"/> Course objectives | <input type="checkbox"/> Reference materials |
| <input type="checkbox"/> Course outline | <input type="checkbox"/> Description of audio-visual materials |
| <input type="checkbox"/> Samples of exam or assessment instrument | <input type="checkbox"/> Handouts |
| <input type="checkbox"/> Participant roster (within 30 days after course) | |
| <input type="checkbox"/> Copy of certificate to be issued | <input type="checkbox"/> Other _____ |

F. Signature

Signature of preparer _____

Date _____

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DEPARTMENT OF YOUTH AND FAMILY SERVICES (STATE BOARD OF)

Title of Regulation: VR 690-20-001. Pre and Post Dispositional Group Home Standards.

Statutory Authority: §§ 16.1-311 and 66-10 of the Code of Virginia.

Effective Date: December 18, 1991.

Summary:

This proposed regulation establishes the Board of Youth and Family Services operating standards for the care of youth in pre and post dispositional group homes. These standards cover all aspects of the operation of such facilities and address areas such as organization, confidentiality of conformation, personnel qualifications and training, requirements for the physical facilities, support staff services, programs and services for residents, medical care, security, and facility rules.

These standards are issued as a new regulation by the board which commenced operations on July 1, 1990. These standards are a revision and update of similar standards issued by the Board of Corrections as VR 230-40-009 in 1983.

All changes in the final regulation are minor text and structure changes; there are no substantive changes to the content of the proposed regulation.

VR 690-20-001. Pre and Post Dispositional Group Home Standards.

PART I. INTRODUCTION.

Article 1. Definitions.

§ 1.1. Definitions.

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

"Actively supervising" means that staff are awake, alert, monitoring the behavior and needs of the residents in [~~his~~ their] care.

["Aftercare services" means those services which a facility provides to a resident after release from the in-house program.]

"Behavior management" means planned and systematic use of various techniques selected according to group and individual differences of the [children residents] and designed to teach awareness of situationally appropriate

behavior, to strengthen desirable behavior, and to reduce or to eliminate undesirable behavior. (The term is consistently generic, not confined to those technicalities which derive specifically from behavior therapy, operant conditioning, etc.)

"Child" means any person defined as a child under state law. [This term includes residents and other children coming in contact with residents and the facility.]

["Child's file/record" means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plans, discharge summary and any other related data related to the child.]

"Contraband" means any item or merchandise possessed by youth, staff or visitor found within the facility which is illegal by law or expressly prohibited or unauthorized by those legally charged with the responsibility for administration and operation of the facility.

"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.

"Crisis intervention" means the systematic use of various techniques selected according to specific situations and designed to reduce or to eliminate the immediate situation.

"Dormitory" means a room used as a sleeping area for more than two [children residents].

"Family planning" means education delivered in an age appropriate manner which includes the human reproduction process, reproduction as a choice, personal responsibility for the care of self and others and in physically intimate situations, and sexually transmitted diseases.

["Isolation" means placing a child in a room with the door secured in any manner that will prohibit the child from opening it.]

"Major rule violation" means any action which is illegal by law or expressly prohibited or unauthorized by those legally charged with the responsibility for administration and operation of the facility. These actions include any which threaten life, safety and security of persons or property.

"Mechanical restraint" means the [application of machinery/tools as a means of physically restraining or controlling a child's behavior such as handcuffs, shackles, or strait jackets use of devices to restrict the movement

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of an individual or the movement or normal function of a portion of the individual's body such as handcuffs, shackles, or strait jackets. "Mechanical restraint" does not include the appropriate use of devices used to provide support for the achievement of functional body position or proper balance and devices used for specific medical and surgical treatment] .

"Medical appliances" means items prescribed by a physician for use and includes hearing aids, glasses, contact lenses, dental appliances, etc.

"Medical screening" means a preliminary evaluation of a resident's general health condition which includes the resident's assessment of his condition.

"Minor rule violation" means any action which is expressly prohibited or unauthorized by those legally charged with the responsibility for administration and operation of the facility that is not considered a major rule violation.

"Physical restraint" means any act by staff which exercises the use of force with a [child resident] as a method or technique for managing harmful [child resident] behavior.

"Pre and Post Dispositional Group Homes" means community based facilities approved and funded by the Board of Youth and Family Services to provide residential care and treatment for [children residents] .

"Program" means the planned application of staff and resources to achieve the stated mission of the facility.

"Release" means transfer of [child a resident] and the authority to supervise to another agency or individual.

["Resident" means a person admitted to the facility for supervision, care, training or treatment on a 24-hour basis. "Resident" includes children making preplacement visits to the facility.]

["Resident's file/ record" means written information assembled in one or more files or binders relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plans, discharge summary and any other data related to the resident.]

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

"Self-protection" means that physical force necessary to protect oneself or others from serious injury or loss of life.

"Shift assignment" means the general schedule of duties and activities which occur within a shift.

"Substitute [child resident] care worker or relief staff" means that employee who performs [child resident] care

as a replacement for or supplement to regular full time staff.

Article 2. Legal Base.

§ 1.2. The Code of Virginia is the foundation for the development of Minimum Standards for Pre and Post Dispositional Group Homes. Section 16.1-311 directs the State Board of Youth and Family Services to establish minimum standards for the construction and equipment of facilities and for feeding, clothing, medical attention, supervision and care of [children residents] detained therein.

§ 1.3. The State Board of Youth and Family Services is authorized to monitor the activities of the department and its effectiveness in implementing the policies of the board as specified by § 66-10 of the Code of Virginia.

PART II. ADMINISTRATION AND ORGANIZATION.

Article 1. Administration.

§ 2.1. The Minimum Standards for Pre and Post Dispositional Group Homes, adopted by the Board of Corrections April 13, 1983, are superseded on the effective date of these standards.

§ 2.2. The standards shall be applicable in conjunction with Standards for Interdepartmental Regulation of Residential Facilities for Children (formerly Core Standards) also promulgated by the Board of Youth and Family Services.

§ 2.3. The primary responsibility for application of these standards shall be with the chief administrator who shall ensure that staff read these and all other applicable standards.

§ 2.4. These standards shall become effective [December 18, 1991] .

Article 2. Organization.

§ 2.5. Each program shall be managed by one chief administrator to whom all employees shall be ultimately responsible.

§ 2.6. When a facility is located on property shared with another agency or facility, it shall be separately administered and have a completely separate program.

[§ 2-7. There shall be a written statement describing mission, philosophy, objectives, programs and services.]

[§ 2-8. § 2.7.] The program shall not exceed rated capacities determined by the Board of Youth and Family

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Services.

[~~§ 2.0.~~ *The program shall not be staffed with fewer child care and treatment personnel than provided for in staffing patterns established by these and other applicable standards promulgated by the State Board of Youth and Family Services.*]

[~~§ 2.10.~~ § 2.8.] *There shall be a written policy and procedure manual available 24 hours a day to all staff. The contents of this manual shall be approved by the parent agency authority, reviewed annually by the chief administrator, updated as necessary and communicated to all staff.*

Article 3. Insurance.

[~~§ 2.11.~~ § 2.9.] *There shall be premises and professional liability insurance, physical plant insurance, employees blanket bond and insurance to protect volunteers.*

Article 4. Participation of [~~Children~~ Residents] in Research.

[~~§ 2.12.~~ § 2.10.] *Human research involving [~~children~~ residents] which includes biological studies, epidemiological investigations, or medical treatment of an experimental nature, shall have prior approval from the Department of Youth and Family Services Human Research Review Committee and shall be consistent with Chapter 13 (§ 37.1-234 et seq.) of Title 37.1 of the Code of Virginia.*

Article 5. Case Management.

[§ 2.11.] *All entries in the youth's record shall be dated and signed or initialed. For facilities that have a computer based record system, the system shall have the capacity to post the identity of the person making the entries into the log or record as well as date and time of that entry. The system security shall be such that subsequent entries to the log or records will bear the current date and time of that entry and not overwrite the previous electronic date stamp.*

[~~§ 2.12.~~ § 2.12.] *Each child's progress in relation to his service plan shall be monitored and documented at least weekly.*

[~~§ 2.14.~~ § 2.13.] *All entries in the [~~child's~~ resident's] case file shall be dated, signed or initialed.*

[~~§ 2.15.~~ *At least monthly, in post dispositional programs, staff shall send to the referring agency a report of the child's progress in the program.*]

[§ 2.16. § 2.14.] *Written procedure governing the purging of case records shall be approved by the State Librarian.*

Article 6. Aftercare Services.

[~~§ 2.17.~~ § 2.15.] *When a facility provides services to a [~~child~~ resident] after release from the in-house program, [a monthly regular] progress [~~report~~ reports] shall be submitted to the supervising agency [; ~~if any~~ on a schedule set by the supervising agency, but not less than every 90 days] .*

[~~§ 2.18.~~ § 2.16.] *A summary of needed post-release services shall be included in the comprehensive discharge summary and shall be submitted to the post-release supervising agency.*

[~~§ 2.19.~~ § 2.17.] *The comprehensive discharge summary and discharge plan shall be submitted to the supervising agency within 10 days of the [~~child's~~ resident's] release.*

Article 7. Confidentiality and Release of Information.

[~~§ 2.20.~~ § 2.18.] *Written procedure shall govern the security of information and data collection systems.*

[~~§ 2.21.~~ § 2.19.] *Written procedure shall provide for the security, confidentiality and destruction of photographs, video tapes [electronic records, computer records,] and audio tapes developed as part of case management, supervision, or training where such materials divulge the identity of the [~~child~~ resident] or family.*

[~~§ 2.22.~~ § 2.20.] *Written procedure shall provide for documented informed consent for the inspection of [~~children's~~ resident's] records in accordance with § 16.1-300 of the Code of Virginia prior to each release of information. Informed consent documentation shall include:*

1. Name of person, agency or organization requesting information;
2. Name of facility releasing information;
3. Specific information being disclosed;
4. Date consent form signed;
5. Signatures of [~~child~~ resident] , parent or guardian and counsel when required;
6. Period of time for which consent is valid; and
7. Purpose for which the information will be used.

PART III. PERSONNEL.

Article 1. Personnel Policies and Procedures.

§ 3.1. *Written policy and procedure shall guard against*

employees and others in positions of control using their official position to secure privileges for themselves or others or engaging in activities that constitute a conflict of interest.

§ 3.2. The agency, commission, or unit of government operating a facility shall have and make available to all staff, written policies and procedures in the following areas:

1. Recruitment and selection;
2. Grievance and appeal;
3. Annual employee evaluation;
4. Confidentiality of employee personnel records;
5. Discipline;
6. Equal employment opportunity;
7. Leave and benefits;
8. Resignations and terminations;
9. Promotion, demotion and transfer;
10. Probationary period;
11. Compensation;
12. Conflict of interest; and
13. Worker's compensation.

[§ 3.3. All staff shall be informed that sexual activity between staff and children is prohibited.]

[§ 3.4. § 3.3.] A physical examination that has been conducted by a licensed physician within 60 days of employment shall be required for all staff prior to contact with [children residents] .

[§ 3.5. § 3.4.] Prior to employment, a criminal record check, driving record check and Central Registry check shall be obtained on all staff to ascertain whether there have been criminal acts or circumstances that would be detrimental to the health, safety and well-being of [children residents] in care.

[§ 3.6. § 3.5.] There shall be a written description of duties, activities and schedules for each shift made available to all staff.

[Article 2.]

[Job Descriptions and Qualifications.]

[§ 3.7. The employee's knowledge, skills and abilities shall comply with those approved by the Board of Youth and Family Services.]

[Article 2. Article 2.]
Staff Development.

[§ 3.8. § 3.6.] Prior to assuming their duties, staff responsible for supervision of [children residents] shall receive 40 hours of orientation which includes, but is not limited to the following:

1. Program philosophy for treating youth;
2. [Children's Resident's] rules and regulations;
3. [Children's Resident's] rights and responsibilities;
4. [Children's Resident's] disciplinary and grievance procedures;
5. Security procedures;
6. Documentation requirements;
7. Review of facility policies, procedures, and applicable standards;
8. Routine medical and medical emergency procedures;
- [9. Administration of medication;]
- [10. 9.] Shift assignments;
- [11. 10.] Implementation of emergency procedures; and
- [12. 11.] Services provided by the program.

[§ 3.7. Authorized nonmedical staff who deliver medications as per § 54.1-3408 of the Code of Virginia shall receive training conducted in accordance with a program approved by the Board of Nursing.]

[§ 3.9. § 3.8.] All staff permitted to use physical restraint as defined by procedure shall receive relevant training sanctioned or conducted by the Department of Youth and Family Services.

[§ 3.10. § 3.9.] In addition to the 40 hours of orientation, all full time staff and permanent staff shall receive an additional 40 hours of training during the first year of employment, and 40 hours for each year thereafter shall be required. There shall be provisions to acknowledge and give credit for prior training received. Training during the first year of employment shall include, but not be limited to the following:

1. On the job training;
2. Adolescent development;
3. CPR (if for medical reasons a staff member is unable to take this training, that person shall always

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work with a person who holds a valid CPR certificate);

4. Multimedia First Aid;

5. Basic skills as provided by the Department of Youth and Family Services or its equivalent;

6. Behavioral documentation;

7. Techniques for verbal and physical intervention;

8. Suicide prevention;

9. Report writing; and

10. Communicable disease training.

[§ 2-11. § 3.10.] All substitute [child resident] care staff shall receive annual training appropriate to their assignment as designated by the chief administrator or designee. This training shall include, but not be limited to, being kept current with program changes, behavior management and discipline.

[Article 4. Article 3.]

Staff Supervision of [Children Residents] .

[§ 2-12. There shall be written procedures for staff supervision of children which prohibits inappropriate and illegal sexual activity between staff and children and written procedures which guard against false accusations of such activities.]

[§ 2-12. § 3.11.] There shall be written procedures regarding staff supervision of [children residents] , which include but are not limited to the following:

1. Staff awareness of specific behaviors and needs of each [child resident] supervised;

2. Required sight or sound supervision of [children residents] ;

3. Designations or descriptions of appropriate versus inappropriate interactions between staff and [children residents and between residents and residents] .

[§ 2-14. § 3.12.] At the beginning of each shift, staff responsible for supervision of [children residents] shall read [and initial] the daily log(s) for significant happenings or problems.

[§ 2-15. § 3.13.] When [children residents] are on the premises, there shall be at least one staff actively supervising.

[§ 2-16. § 3.14.] Staff responsible for the supervision of [children residents] during meals shall be seated with the [children residents] during meals and served the same meal except for necessary special diets required for such

staff and residents.

[§ 2-17. § 3.15.] The facility staff shall maintain a system of accounting for the whereabouts of [children residents] in care at all times.

[Article 5. Article 4.]
Volunteers and Students.

[§ 2-18. § 3.16.] All volunteers shall be registered with the Department of Youth and Family Services.

[§ 2-19. § 3.17.] There shall be documentation that volunteers and students complete an orientation and training program before they participate in their assignments, which includes confidentiality of information regarding [children residents] .

[§ 2-20. § 3.18.] Volunteers and students shall agree in writing to abide by all facility policies and procedures, particularly those relating to confidentiality.

[§ 2-21. § 3.19.] Written procedure shall provide the chief administrator the authority to curtail, postpone or discontinue the services of a student, volunteer, or volunteer organization, when there is sufficient reason for doing so.

PART IV. RESIDENTIAL ENVIRONMENT.

Article 1. Inspections

§ 4.1. Daily health, safety and security inspections of the facility shall be conducted [by staff] . Inspections shall be documented and deficiencies reported to designated staff.

§ 4.2. Documentation shall exist indicating monthly inspection by facility staff of standby lighting, batteries, power generators, fire fighting apparatus, communication systems and alarms. Any defective equipment shall be repaired or replaced as necessary.

Article 2. Personal Hygiene Equipment and Laundry.

§ 4.3. There shall be provisions at the home, at a laundromat, or commercial laundry for washing and drying residents' clothing and linens.

§ 4.4. There shall be a thorough cleaning and disinfecting of [children's residents] personal clothing when contaminated.

Article 3. [Sleeping] Areas.

§ 4.5. Male and female [children residents] shall not occupy the same sleeping room.

§ 4.6. The core and cover of all mattresses and pillows shall be fire retardant.

Article 4. Storage and Inventory.

§ 4.7. There shall be a written procedure that specifies the control, storage and use of all flammable, toxic and caustic materials in accordance with state and local requirements.

Article 5. Space, Equipment and Furnishings.

§ 4.8. Private counseling space and space to accommodate group meetings shall be provided in the group home.

§ 4.9. In homes serving children under 12 years of age, showers and tubs shall be equipped with mixing spigots. [Water for showers shall be thermostatically controlled at a temperature no higher than 120 degrees Fahrenheit.]

§ 4.10. Safety glass, plexiglas or other nonshatterable material shall be installed in storm doors and shower doors.

Article 6. Specifications for New Construction, Buildings and Renovations.

§ 4.11. Flame retardant and nontoxic materials shall be used in construction whenever possible.

Article 7. Maintenance and Support Services.

§ 4.12. Offenders from adult correctional institutions or any person performing services to the facility as a result of a conviction in an adult court shall not work in areas where [~~children~~ residents] are present.

§ 4.13. There shall be direct and continuous supervision by facility staff of outside personnel performing services to the facility when in the presence of [~~children~~ residents].

PART V. PROGRAMS AND SERVICES.

Article 1. Admissions.

§ 5.1. Written admission criteria shall stipulate that there is no discrimination in accepting [~~children~~ residents] on the basis of race, creed or national origin.

[§ 5.2. Whenever a prospective resident is denied admission based upon a documented study or preplacement process, the referring agency shall be notified in writing of the specific reasons.]

[§ ~~5.2~~ § 5.2.] Any predispositional program which accepts self-referrals shall document that efforts to obtain legal authority for placement have been made within 24 hours of admission.

[§ ~~5.4~~ § 5.3.] At the time of admission, staff shall discuss with the [~~child~~ resident] services available, rules governing conduct, program rules, possible disciplinary actions and fire evacuation procedures. This shall be documented by staff member's and [~~child's~~ resident's] signatures.

[§ ~~5.5~~ § 5.4.] Written procedures for admitting and orienting [~~children~~ residents] shall address, but not be limited to the following:

1. Verification of legal authority for placement;
2. Search of the individual [~~child~~ resident] and the [~~child's~~ resident's] possessions;
3. Medical screening;
4. Notification of family including admission, visitation and general information;
5. Interview (by staff) to obtain identifying information;
6. Interview with [~~child~~ resident] to answer questions and obtain information;
7. Explanation of program rules and expectations, program services and schedule(s);
8. Explanation and receipt of grievance procedure; and
9. Assignment to a housing unit or room.

Article 2. Residential Services.

[§ ~~5.6~~ § 5.5.] There shall be one or more daily log books, bound, consecutively numbered and written in ink, [or computer logs with security systems described in § 2.11,] containing at a minimum for each shift the following information:

1. Population count and location of [~~children~~ resident];
2. Intake and release of [~~children~~ resident];
3. Resident's visitor's name, name of resident, date, time of visit;
4. Significant behavior of specific [~~children~~ resident], including surnames at least once, and any action taken;

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5. Name of staff on duty, name and date of staff making entry.

[§ 5-7. § 5.6.] Any serious incident shall be documented in the daily log and the [child's file resident's].

[§ 5-9. § 5.7.] [Children's The resident's] money and any accrued interest shall be expended by the [child resident] only.

Article 3. Health Care.

[§ 5-9. § 5.8.] There shall be a written procedure for notifying program staff of individual requirements or restrictions as dictated by [children's resident's] medical needs. Staff shall be provided with specific instructions for meeting these needs.

[§ 5-10. § 5.9.] The [child's resident's] parents/guardians shall be notified within 24 hours when emergency medical or psychiatric care appears necessary.

[§ 5.10. Written policy, procedure and practice require that medical screening shall be performed on all residents upon admission and documented in the resident's record or medical file. This may be performed by trained facility staff.]

§ 5.11. Medical screening shall be performed on all children in predispositional status upon admission and documented in the child's file or medical record. The medical screening [interview] shall include:

1. Pregnancy screening, when applicable;
2. Venereal disease screening;
3. Current illnesses and health problems;
4. Behavioral observation, including state of consciousness and mental status [and suicide ideation] ;
5. Notation of body deformities, trauma markings, bruises, lesions, ease of movement, jaundice, etc.;
6. Condition of skin [and body orifices] , [eyes, ears, nose and mouth,] including rashes and infestations [; ;]
- [7. Allergies;
8. Immunization status;
9. Alcohol and other drug use, including prescription drugs;
10. Gynecologic problems;
11. Medications; and

12. Medical disposition.

a. General population, or

b. General population with appropriate referral to health care service, or

c. Referral to appropriate health care service for emergency treatment.]

§ 5.12. Written procedure shall provide that when a [child resident] is in need of hospitalization, a parent/guardian or staff member accompanies the [child resident] and stays at least during admission.

§ 5.13. Medical care shall be paid for through the [child's resident's] parents' [or guardian's] medical insurance or [personal funds, or] other forms of health coverage whenever possible and the efforts to accomplish this shall be documented.

§ 5.14. [All medical examinations, treatments and procedures affected by informed consent standards in the community shall be observed for the care of children and the informed consent of the child, parent, guardian or legal custodian shall apply where required by statute. Informed consent standards regarding medical examinations, treatments and procedures for the care of children shall apply to residents, where required by statute.]

Article 4. Medication.

§ 5.15. Medication shall not be prescribed for the sole purpose of discipline or management of the program.

§ 5.16. Accurate records of all medication dispensed shall be maintained and shall include:

1. Name of medication;
2. Dosage amount;
3. Prescribed schedule of administration, when applicable;
4. Date, time of administration;
5. Initials or name of staff dispensing the medication; and
6. Name of [child resident] receiving the medication.

§ 5.17. There shall be a written procedure for the disposal of discontinued, unused or expired medication.

§ 5.18. There shall be written procedure regarding the possession and use of controlled substances, prescribed medications and over-the-counter drugs. In specific circumstances approved by the chief administrator, [

children residents] may be allowed to administer medication to themselves.

Article 5. Discharge/Release Information.

§ 5.19. [*When a child is released from a predispositional program to the supervision of another agency or directly to parents/guardians, there shall be documentation in the comprehensive discharge summary that the following information and materials accompanied the child: When a resident in a predispositional program or postdispositional program is released to the supervision of another agency or directly to parents/guardians, there shall be documentation in the comprehensive discharge summary that the following information and materials accompanied the resident:]*

1. A written statement concerning any existing health problems requiring medical follow-up;
2. A 10-day supply of current medication(s) unless prescribed for fewer days;
3. A written statement concerning current medication(s) to include instructions for taking the medication(s), condition for which each medication is prescribed, and instructions for having prescriptions refilled, if applicable;
4. Medical appliances used by the [*child resident*] ;
5. Record of immunizations, if available; and
6. Statement of tests and examinations.

[§ 5.20. *When a child in a postdispositional program is released, there shall be documentation in the comprehensive discharge summary that the following information and materials accompanied the child:*

1. A written statement concerning any existing health problems requiring medical follow-up; accompany child only;
2. A 10-day supply of current medication(s) unless prescribed for fewer days;
3. A written statement concerning current medication(s) to include instructions for taking the medication(s), condition for which each medication is prescribed, and instructions for having prescriptions refilled, if applicable;
4. Medical appliances used by the child;
5. Record of immunizations; and
6. A statement of tests and examinations.

[§ 5.21. § 5.20.] There shall be documentation that prior

to release the following have been discussed with each [*child resident*] :

1. Health problems which require personal care or medical follow-up, or both;
2. Instructions for taking medications, if applicable; [and]
3. Family planning for [*children residents*] in care for more than 30 days [; and .]
- [4. Sexually transmitted diseases for children in care for more than 30 days.]

Article 6. Discipline and Behavior Management.

[§ 5.22. § 5.21.] Corporal punishment shall be prohibited.

[§ 5.23. § 5.22.] Placing a [*child resident*] in a room with the door secured in any manner that will prohibit the child from opening it shall be prohibited.

[§ 5.24. § 5.23.] Written rules and types of sanctions with the disciplinary procedures to be followed shall be explained to each new [*child resident*] and made continuously available to [*children residents*] .

[§ 5.25. § 5.24] Written procedure shall require staff to prepare a disciplinary report when there is reasonable belief that a [*child resident*] has committed a major rule violation. Such reports shall contain, but not be limited to the following information:

1. [*Specific rule(s)* Rule(s) allegedly] violated;
2. A formal statement of the charge;
3. Any unusual behavior;
4. Any staff or [*child resident*] witnesses;
5. Disposition of any physical evidence;
6. Any immediate action taken, including the use of force; and
7. Reporting person's signature, date and time of report.

[§ 5.26. § 5.25.] Written procedure shall prohibit any [*child resident*] from exercising supervision and control over other [*children residents*] .

[§ 5.27. § 5.26.] Written procedure shall ensure that prior to suspension of privileges or other disciplinary action, the reasons are explained to the [*child resident*] .

[§ 5.28. § 5.27.] Written procedure shall provide that [*children residents*] are not subject to punitive actions

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which interfere with the daily functions of living, such as eating, sleeping or exercising.

[~~§ 5.29.~~ § 5.28.] There shall be written procedure restricting the use of physical force and physical restraints to instances of justifiable self-protection, protection of others, and protection of property.

Article 7. Youth Rights.

[~~§ 5.30.~~ § 5.29.] In coeducational group homes, male and female residents shall have equal access to all group home programs and activities.

[~~§ 5.31.~~ § 5.30.] Written procedure shall provide that [~~children~~ residents] are not subject to discrimination based on race, national origin, color, creed, sex or physical handicap.

[~~§ 5.32.~~ § 5.31.] Where a language or literacy problem exists which can lead to the [~~child's~~ resident's] misunderstanding of programs, rules and regulations, assistance shall be provided to the [~~child~~ resident] either by staff or other qualified individual under the supervision of staff.

[~~§ 5.33.~~ § 5.32.] Written procedure shall provide for [~~children~~ residents] to receive and make unmonitored telephone calls [, subject only to the limitations necessary to maintain facility order and security] .

[~~§ 5.34.~~ § 5.33.] There shall be a written youth grievance procedure, which ensures that each [~~child~~ resident] has the right to file a grievance and to ensure that no adverse action is taken against the grievant as a result of the filing of the grievance.

[~~§ 5.35.~~ § 5.34.] Provisions shall be made for the hearing of youth grievances by administrative staff not involved in the substance of the grievance.

[~~§ 5.36.~~ ~~Children~~ § 5.35. Residents] shall have access to courts, attorneys and legal assistance.

[~~§ 5.37.~~ § 5.36.] No person shall question a [~~child~~ resident regarding an adjudicated or alleged offense] without permission of the committing agency, attorney, parent or legal guardian, or other persons standing in loco parentis, unless permitted by other applicable standards or statutes.

Article 8. Mail.

[~~§ 5.38.~~ § 5.37.] Written procedure shall govern opening and inspecting incoming and outgoing mail. Mail shall be [opened and] read by facility staff [with the resident present] when there is clear and convincing evidence that it contains contraband or otherwise poses a threat to the safety and security of [~~children~~ residents] , staff or

facility.

[~~§ 5.39.~~ § 5.38.] Correspondence and mail addressed to or from a court, counsel or administrators of the grievance system shall not be read by staff.

[~~§ 5.40.~~ § 5.39.] Incoming and outgoing mail shall not be held for more than 24 hours, excluding weekends and holidays and when [~~children~~ residents] are absent from the facility.

[~~§ 5.41.~~ § 5.40.] Written procedure shall allow [~~children~~ residents] to send confidential correspondence to parents and family, legal guardian, attorney, courts, officials of the confining authority, public officials and administrators of the grievance system.

[~~§ 5.42.~~ § 5.41.] Written procedure shall provide [~~children~~ residents with] the right to correspond with persons or organizations, subject only to the limitations necessary to maintain facility order and security.

[~~§ 5.43.~~ § 5.42.] The chief administrator shall ensure that [~~children~~ residents] are provided postage and writing materials for the mailing of a minimum of two letters per week for each [~~child~~ resident] and for all legal correspondence.

Article 9. Visitation.

[~~§ 5.44.~~ § 5.43.] All [~~children~~ residents] shall be afforded the opportunity for family visitation, except when the safety of an individual is in question. The procedures for visitation shall be made available to all [~~children~~ residents] , parents or legal guardians and referring agencies.

[~~§ 5.45.~~ § 5.44.] Provisions shall be made for visitation at least once during the week and once on weekends. Special allowances shall be made for parents when there are extenuating circumstances which prohibit visitation at scheduled times.

[~~§ 5.46.~~ § 5.45.] ~~Provisions shall be made for~~ There shall be provisions for the [] revocation of visitation privileges when visitation procedures are violated.

§ 5.47. § 5.46.] Written procedures shall specify that visitors provide identification upon request.

§ 5.48. ~~Children~~ § 5.47. Residents] shall have confidential access to their attorney or designee.

[~~§ 5.49.~~ § 5.48.] There shall be a designated visiting area.

Article 10. Security Within the Facility

[~~§ 5.50.~~ § 5.49.] Written procedure shall govern the

control of contraband.

[~~§ 5.51.~~ § 5.50.] There shall be a written procedure for the regular search of the physical facility.

[~~§ 5.52.~~ § 5.51.] There shall be a written procedure for the search of [~~children residents~~] which shall provide for:

1. Avoiding undue force;
2. Avoiding embarrassment or indignity to the [~~child resident~~] ;
3. Using nonintensive sensors and other electronic equipment instead of body search;
4. Frequency of searches; and
5. Respecting [~~children's resident's~~] rights to their property.

[~~§ 5.53. Body cavity searches are prohibited.~~]

[~~§ 5.54.~~ § 5.52.] Where a new crime is suspected, written policy and procedure shall govern searches and the preservation of evidence. Searches are authorized only by the chief administrator or designee.

[~~§ 5.53. Group home staff are prohibited from conducting body cavity searches.~~]

Article 11.
Recreation.

[~~§ 5.55.~~ § 5.54.] Recreational equipment, materials and supplies shall be safe, age appropriate, durable and well maintained.

[~~§ 5.56.~~ § 5.55.] Recreational programs shall provide opportunities for daily physical exercise.

Article 12.
Vehicles and Transportation.

[~~§ 5.57.~~ § 5.56.] Public transportation shall not be relied upon for emergencies.

[~~§ 5.58.~~ § 5.57.] There shall be written procedure governing safety and maintenance of facility and staff vehicles used to transport [~~children residents~~] .

[~~§ 5.59.~~ § 5.58.] It shall be the responsibility of the facility to have transportation available and to make the necessary transportation arrangements in medical emergencies.

[~~§ 5.60.~~ § 5.59.] Written procedure shall govern supervision and transportation of [~~children residents~~] outside the facility perimeter. Staff involved in these activities shall be appropriately trained.

PART VI.
EMERGENCY AND SAFETY PROCEDURES.

Article 1.
Procedures for Meeting Emergencies.

§ 6.1. There shall be written procedure which specifies action to be taken in the event of:

1. Vehicular emergencies;
2. Disturbances;
3. Hostage situations; and
4. Bomb threats.

STATE CORPORATION COMMISSION

FINAL REGULATION
STATE CORPORATION COMMISSION

AT RICHMOND, OCTOBER 24, 1991

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS910220

Ex Parte: In the matter of
adopting Rules Establishing
Standards for Life, Annuity, and
Accident and Sickness Reinsurance
Agreements

ORDER ADOPTING REGULATION

WHEREAS, by order entered herein July 24, 1991, the Commission ordered that a hearing be held in the Commission's Courtroom on September 24, 1991, for the purpose of considering the adoption of a regulation proposed by the Bureau of Insurance ("Bureau") entitled "Rules Establishing Standards for Life, Annuity, and Accident and Sickness Reinsurance Agreements";

WHEREAS, the Commission's Senior Hearing Examiner conducted the aforesaid hearing on behalf of the Commission where he received the comments of interested persons;

WHEREAS, the Senior Hearing Examiner has filed his report in this matter wherein he found that the regulation, as amended, should be adopted by the Commission and he recommended that the Commission enter its order adopting the proposed amended regulation; and

THE COMMISSION, having considered the record herein, the comments of interested persons, the report and recommendation of its Senior Hearing Examiner, is of the opinion that the regulation, as amended, should be adopted;

THEREFORE, IT IS ORDERED that the regulation entitled "Rules Establishing Standards for Life, Annuity, and Accident and Sickness Reinsurance Agreements" which is attached hereto and made a part hereof, should be, and it is hereby, ADOPTED to be effective December 1, 1991.

AN ATTESTED COPY hereof, together with a copy of the regulation, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner, Alfred W. Gross, who shall forthwith give further notice of the adoption of the regulation by mailing a copy of this order together with a copy of the regulation to all companies licensed to write life insurance, annuities, or accident and sickness insurance in the Commonwealth of Virginia.

RULES ESTABLISHING STANDARDS FOR LIFE,
ANNUITY, AND ACCIDENT AND SICKNESS
REINSURANCE AGREEMENTS

§ 1. Authority.

This Regulation is adopted and promulgated by the Commission pursuant to Virginia Code §§ 12.1-13, 38.2-223 and 38.2-1316.7.

§ 2. Purpose.

A. The purpose of this Regulation is to set forth standards for reinsurance agreements involving life insurance, annuities, or accident and sickness insurance in order that the financial statements of the life and health insurers utilizing such agreements properly reflect the financial condition of the ceding insurer.

B. The Commission recognizes that life and health insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.

C. The Commission has become aware that some life and health insurers, in the capacity of ceding insurers, have at times entered into reinsurance agreements, for the principal purpose of producing significant surplus aid for the ceding insurer, which provide little or no indemnification of policy benefits by the reinsurer. In addition, the Commission is concerned with reserve credits taken under reinsurance agreements which provide some indemnification of policy benefits where those policy benefits are not included in the gross reserves established by the ceding insurer, such as catastrophic mortality or extraordinary survival. The Commission believes that insurers should be precluded from claiming the surplus relief created by the terms of such agreements as referred to herein and described in § 4 of this regulation, since the recognition of such surplus would be in conflict with:

(1) the provisions of Virginia Code §§ 38.2-1300 and 38.2-1301 requiring insurers to file financial statements and reports that disclose full and accurate knowledge of their affairs and condition;

(2) the provisions of Article 3.1, Chapter 13 of Title 38.2 of the Code of Virginia relating to reinsurance reserve credits and a ceding insurer's ability to reduce liabilities or establish assets for reinsurance ceded; and

(3) the provisions of Virginia Code §§ 38.2-1038 and 38.2-1040 concerning the manner in which the Commission may respond to an insurer whose condition or continued operation may be hazardous to policyholders, creditors and the public in this Commonwealth.

§ 3. Scope and definitions.

A. This Regulation shall apply to all domestic life and health insurers and to all other licensed life and health insurers who are not subject to substantially similar provisions in their states of domicile or entry.

B. For purposes of this Regulation,

(1) "Life and health" and "life or health" mean (i) a class of insurance defined by Virginia Code §§ 38.2-102 through 38.2-109 or (ii) any product or service sold or offered by a person organized and licensed in Virginia under Chapter 38 (cooperative nonprofit life benefit companies), Chapter 39 (mutual assessment life, accident and sickness insurers), Chapter 42 (health services plans) or Chapter 45 (dental and optometric services plans) of Title 38.2 of the Code of Virginia.

(2) "Insurer" means an insurance company or a cooperative nonprofit life benefit company or a mutual assessment life, accident and sickness insurer, or a health services plan or a dental services plan or an optometric services plan as those terms are defined in Title 38.2 of the Code of Virginia.

§ 4. Accounting and actuarial requirements.

A. No life or health insurer subject to this Regulation shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the Commission if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

(1) The primary effect of the reinsurance agreement is to transfer deficiency reserves or excess interest reserves to the books of the reinsurer for a "risk charge" and the agreement does not provide for significant participation by the reinsurer in one or more of the following risks: mortality or morbidity, investment, or persistency;

(2) The reserve credit taken by the ceding insurer is not in compliance with the laws of this Commonwealth, particularly the provisions of Title 38.2 of the Code of Virginia and related Rules, Regulations and administrative pronouncements, including actuarial interpretations or standards adopted by the Commission;

(3) The reserve credit taken by the ceding insurer is greater than the amount which the ceding insurer would have reserved on the reinsured portion of the risk if there had been no reinsurance;

(4) The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against prior years' losses nor payment by the ceding insurer of an amount equal to prior years' losses, upon voluntary termination of in-force reinsurance by that ceding insurer, shall be

considered such a reimbursement to the reinsurer for negative experience; provided, however, that any offsetting provisions (i) shall be limited to such reinsurance agreement, (ii) are specifically between the ceding insurer and the reinsurer and (iii) are provided for in such reinsurance agreement;

(5) The ceding insurer can be deprived of surplus at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer or the appointment of a receiver, except that termination of the reinsurance agreement by the reinsurer for non-payment of reinsurance premiums shall not be considered to be such a deprivation of surplus;

(6) The ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

(7) Settlements are made on an untimely basis or payments due from the reinsurer are not made in cash, but are instead made only in a "reinsurance account" and no funds in such account are available for the payment of benefits;

(8) The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies; or

(9) The terms or operating effect of the reinsurance agreement are such that it does not transfer substantial liability or risk.

B. Compliance with the conditions of subsection A of this section is not to be interpreted to diminish the requirement of Article 3.1 of Chapter 13 in Title 38.2 of Code of Virginia that the reserve credits taken must be based upon the actual liability assumed by the reinsurer to reimburse the ceding company for benefits that the ceding company is obligated to pay under its direct policies and which gave rise to the requirement of statutory reserves.

C. Reinsurance agreements may be such that economic guarantees within the agreement may create a liability which did not exist prior to the agreement. Any contractual guarantees imposed by the agreement upon the ceding insurer must be valued and an appropriate liability otherwise established, or reduction made to otherwise allowable reserve credit, to recognize such obligations. This shall not apply to contractual guarantees that are not economical in nature, such as underwriting, accounting and premium payment procedures guarantees.

D. The ceding insurer's actuary responsible for the valuation of the reinsured business shall consider this Regulation and any applicable actuarial standards of practice when determining the proper reinsurance credit in financial statements filed with the Commission. The

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actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work that substantiates the reserves, reserve credits or any other reserve adjustments reported in the financial statement and to demonstrate to the satisfaction of the Commission that such work conforms to the provisions of this Regulation.

E. Notwithstanding subsection A of this section, an insurer subject to this Regulation may, with the prior approval of the Commission, take such reserve credit as the Commission may deem consistent with the laws of this Commonwealth, particularly the provisions of Title 38.2 of the Code of Virginia and related Rules, Regulations and administrative pronouncements, including actuarial interpretations or standards adopted by the Commission. All of the insurer's financial statements filed with the Commission, pursuant to Virginia Code §§ 38.2-1300 or 38.2-1301.1, shall thereafter identify the reduction in liability or the establishment of an asset.

§ 5. Written agreements.

A. No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the Commission, unless the agreement, amendment or a letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

B. In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding ninety (90) days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

C. The reinsurance agreement shall at all times set forth the names of all parties to the agreement.

§ 6. Existing agreements.

Notwithstanding subsection 4A of this Regulation, insurers subject to this Regulation may continue to reduce liabilities or establish assets in financial statements filed with the Commission for reinsurance ceded under types of reinsurance agreements described in §§ 2C and 4, provided:

A. The agreements were executed and in force prior to the effective date of this Regulation;

B. No new business is ceded under the agreements after the effective date of this Regulation;

C. The reduction of the liability or the asset established for the reinsurance ceded is reduced to zero (0) at least on a pro-rata basis by December 31, 1992, or such later date approved by the Commission as a result of an application made by the ceding insurer prior to July 1, 1992;

D. The reduction of the liability or the establishment of the asset is otherwise permissible under all other applicable provisions of the laws of this Commonwealth, particularly the provisions of Title 38.2 of the Code of Virginia and related Rules, Regulations and administrative pronouncements, including actuarial interpretations or standards adopted by the Commission; and

E. The Commission is notified, within ninety (90) days following the effective date of this Regulation, of the existence of such reinsurance agreements and all corresponding reserve credits taken or assets established in the ceding insurer's 1991 Annual Statement.

§ 7. Severability.

If any provision in this Regulation or the application thereof to any person or circumstance is held for any reason to be invalid, the remainder of the provisions in this Regulation shall not be affected thereby.

PROPOSED REGULATION

STATE CORPORATION COMMISSION

AT RICHMOND, OCTOBER 21, 1991

COMMONWEALTH OF VIRGINIA

At the relation of the

CASE NO. INS910307

STATE CORPORATION COMMISSION

Ex Parte: In the matter of
adopting Rules Governing Credit
for Reinsurance

ORDER SETTING HEARING

WHEREAS, Virginia Code § 12.1-13 provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction and Virginia Code §§ 38.2-223 and 38.2-1316.7 provide that the Commission is authorized to issue reasonable rules and regulations governing credit for reinsurance;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed regulation entitled "Rules Governing Credit for Reinsurance"; 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 Credit for Reinsurance" be appended hereto and made a part hereof, filed and made a part of the

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record herein;

(2) That a hearing be held in the Commission's Courtroom, 13th Floor, Jefferson Building, Bank and Governor Streets, Richmond, Virginia at 11:00 a.m. on December 17, 1991, for the purpose of considering the adoption of the proposed regulation;

(3) That, on or before November 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, together with a copy of the proposed regulation, be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Alfred W. Gross, who shall forthwith give further notice of the proposed regulation and hearing by mailing a copy of this order together with a copy of the proposed regulation to all insurance companies licensed 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 Credit for Reinsurance.

Section 1. Authority.

This regulation is promulgated pursuant to the authority vested in the Commission by §§ 38.2-223, 38.2-1316.7 and 12.1-13 of the Code of Virginia.

Section 2. Purpose.

The purpose of this regulation is to set forth rules and procedural requirements which the Commission has determined are necessary to carry out the provisions of Article 3.1 of Chapter 13 of Title 38.2 of the Code of Virginia.

Section 3. Severability.

If any provision of this regulation, or its application to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this regulation are separable.

Section 4. Applicability and Scope.

This regulation shall apply to all insurers taking credit for reinsurance under the provisions of Article 3.1 of Chapter 13 of Title 38.2 of the Code of Virginia.

Section 5. Definitions.

For purposes of this regulation:

A. "The Act" means the provisions concerning reinsurance set forth in Article 3.1 of Chapter 13 of Title 38.2 of the Code of Virginia.

B. "Accredited Reinsurer" has the meaning set forth in Virginia Code § 38.2-1316.1.

C. "Accredited state" means a state in which the supervising insurance official, state insurance department or regulatory agency is accredited by the National Association of Insurance Commissioners (NAIC) with respect to compliance with the NAIC Policy Statement on Financial Regulation Standards.

D. "Audited financial report" means and includes those items specified in Section 7 of Insurance Regulation No. 39 entitled "Rules Governing Annual Audited Financial Reports."

E. "Beneficiary" means the entity for whose sole benefit the trust described in Section 13 of this regulation, or the letter of credit described in Section 14 of this regulation, has been established and any successor of the beneficiary by operation of law, including, without limitation, any receiver, conservator, rehabilitator or liquidator.

F. "Credit" has the meaning defined in Virginia Code § 38.2-1316.1.

G. "Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.

H. "Obligations", as used in Subsection A.8 of Section 13 of this regulation, means:

1. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;

2. Reserves for reinsured losses reported and outstanding;

3. Reserves for reinsured losses incurred but not reported; and

4. Reserves for allocated reinsured loss expenses and unearned premiums.

I. "Qualified United States financial institutions" has the meanings set forth in Virginia Code § 38.2-1316.1.

J. "Statutory financial statement" means financial statements filed on either a quarterly or annual basis with the supervising insurance official, insurance department or insurance regulatory agency of the assuming insurer's state of domicile or, in the case of an alien assuming

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insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance. Any statutory financial statement required under this regulation shall be filed in accordance with the filing dates prescribed for the financial statements filed by licensed insurers pursuant to Virginia Code §§ 38.2-1300 and 38.2-1301.

K. "Substantially similar" standards means credit for reinsurance standards which the Commission determines equal or exceed the standards of the Act and this regulation. An insurer licensed and domiciled, or entered through and licensed, in an accredited state is deemed to be subject to substantially similar standards for purposes of the Act and this regulation.

L. "Surplus to policyholders" (i), when applied to a domestic or foreign assuming insurer, has the meaning set forth in Virginia Code § 38.2-100, and (ii), when applied to an alien assuming insurer, means trusteed surplus as defined in Virginia Code § 38.2-1031. In both instances as used in this regulation, the calculation and verification of such surplus shall be subject to the provisions of Title 38.2 of the Code of Virginia pertaining to admitted assets, investments, reserve requirements and other liabilities.

Section 6. Credit for Reinsurance Generally.

A. Except for those credits or reductions in liability allowed pursuant to § 38.2-1316.4 of the Act, a ceding insurer shall not receive reserve credits for reinsurance unless the assuming insurer meets certain financial and licensing requirements established by §§ 38.2-1316.2 and 38.2-1316.3 of the Act. The following paragraphs of this section and Sections 4, 5, 6, and 7 of this regulation set forth requirements for such assuming insurers.

B. The Act also contains examination and jurisdiction submission requirements by which most assuming insurers are required to submit to the examination authority of the Commission and the limited jurisdiction of this Commonwealth. The assuming insurer may also be required to appoint the Clerk of the Commission as statutory agent for service of process in any action, suit or proceeding instituted by or on behalf of the ceding insurer. The following provisions shall apply whenever such submissions or appointments are required by the Act or this regulation:

1. The submissions shall be executed and filed in duplicate on forms approved by the Commission.
2. When the assuming insurer is an incorporated company, each appointment or submission shall be executed by a duly authorized officer of the corporation. When the assuming insurer is an unincorporated group of persons, such forms may be executed by a trustee or other duly appointed and authorized representative of the group. In no case shall the executing officer, trustee, or representative be affiliated with or employed by a corresponding

ceding insurer.

3. A submission to limited jurisdiction and any appointment of the Clerk of the Commission as agent for service of process shall be accompanied by a current listing of ceding insurers with whom reinsurance agreements are in effect. For each such ceding insurer the listing shall include the complete name, address, domicile, and, for those companies registered with the NAIC, the identifying NAIC number of the ceding insurer. The listing shall also identify which ceding insurers are licensed in Virginia. Such listing shall be updated at least annually unless more frequent filings are requested by the Commission.

C. Restricted amounts of credit and alternative reductions in liability may be available under § 38.2-1316.4 of the Act if the transaction is required by law or properly collateralized. Section 11 of this regulation pertains to reinsurance transactions required by law. Sections 9, 10, 11 and 12 of this regulation relate to collateralized transactions, including those secured by letters of credit.

D. Regardless of whether a ceding insurer seeks credit pursuant to § 38.2-1316.2, § 38.2-1316.3 or § 38.2-1316.4 of the Act, no balance sheet adjustments can be made unless the reinsurance agreement satisfies the conditions of § 38.2-1316.5 of the Act and Section 16 of this regulation. Additional conditions can affect transactions involving trusteed funds or groups of assuming insurers.

E. Even if all other conditions are met, credit can be disallowed pursuant to §§ 38.2-1316.6 of the Act if there is any indication of financial statement distortion. The reinsurance transaction must be marked by significant transfer of risk.

F. The ceding insurer is responsible for determining, in advance of any request for credit, whether the assuming insurer is an acceptable assuming insurer under the provisions of the Act. The ceding insurer is also responsible for the proper and timely filing of any materials required of its assuming insurer even though such materials or filings may by necessity or definition originate with the assuming insurer.

G. Except as provided elsewhere in this regulation, all filings required by the Act or this regulation shall be filed (i) prior to the date of the statutory financial statement under which the ceding insurer in a given reinsurance agreement initially seeks credit according to the provisions of the Act, and (ii) on or before March 1 of each successive year in which ceding insurer seeks credit or the assuming insurer seeks standing in this Commonwealth as an accredited reinsurer.

H. Unless an extension for the time of filing is first granted in writing, the failure to submit timely filings or to respond within ten (10) days to any request by the

Commission for additional documents shall be considered grounds for disallowing credit and/or revoking the standing of an accredited reinsurer. Extensions may be granted for any period determined by the Commission, provided, however, that no extensions shall be granted which extend the filing date more than 90 (ninety) days beyond the original due date.

Section 7. Credit for Reinsurance - Reinsurer Licensed in this Commonwealth.

Pursuant to subsections A.1 of §§ 38.2-1316.2 and 38.2-1316.3 of the Act, the Commission shall allow credit when reinsurance is ceded to an assuming insurer which is actively licensed and in good standing in this Commonwealth as of the date of the ceding insurer's statutory financial statement. Such an assuming insurer shall have been issued (i) a current Certificate of Authority under Title 13.1 of the Code of Virginia and (ii) a license under Title 38.2 of the Code of Virginia which is neither suspended nor impaired.

Section 8. Credit for Reinsurance - Accredited Reinsurers.

A. Pursuant to subsection A.2 of § 38.2-1316.2 and A.1 of § 38.2-1316.3 of the Act, the Commissioner shall allow credit when reinsurance is ceded to an assuming insurer which is an accredited reinsurer as of the date of the ceding insurer's statutory financial statement.

B. The Commission shall accredit assuming insurers which satisfy the filing requirements of this section, and which maintain a surplus to policyholders in an amount not less than \$20 million. If an accredited reinsurer fails to maintain surplus to policyholders of at least \$20 million, it shall file with the Commission, in addition to the other requirements set forth in this section, a letter of explanation as to why the requisite surplus is less than \$20 million and justification as to why the Commission should not revoke the accreditation of such assuming insurer.

C. Filing Requirements.

1. As a condition of accreditation, an accredited reinsurer shall file with the Commission:

a. Evidence of its submission to the Commission's authority to examine its books and records and

b. Evidence of its submission to this Commonwealth's jurisdiction and appointment of the Clerk of the Commission as agent for service of process in any action, suit or proceeding instituted by or on behalf of the ceding company.

2. The following documents shall be filed prior to accreditation and annually thereafter for as long as the assuming insurer seeks standing in this Commonwealth as an accredited reinsurer:

a. A certified copy of a certificate of authority or of compliance or other evidence that it is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state,

b. A copy of its statutory financial statement,

c. A copy of its most recent audited financial report, and

d. Any additional information, certifications or reports of the assuming insurer as the Commission determines are necessary to verify the licensing status or financial condition of the assuming insurer.

Section 9. Credit for Reinsurance - Reinsurer Domiciled and Licensed in Another State, and Neither Licensed nor Accredited in Virginia.

A. Pursuant to the provisions of subsection A.3 of § 38.2-1316.2 of the Act, the Commission shall allow credit when a domestic insurer cedes reinsurance to an assuming insurer which as of the date of the ceding insurer's statutory financial statement:

1. Maintains a surplus to policyholders in an amount not less than \$20 million; and is domiciled and licensed, or entered through and licensed, in a state which employs standards regarding credit for reinsurance substantially similar to those applicable under the Act and this regulation;

2. Submits to the Commission's authority to examine its books and records;

3. Submits to this Commonwealth's jurisdiction and designates the Clerk of the Commission as agent for service of process in any action, suit or proceeding instituted by or on behalf of the ceding company; and

4. Satisfies the applicable filing requirements set forth in subsection C of this section.

B. A foreign or alien ceding insurer taking credit pursuant to subsection A.2 of § 38.2-1316.3 of the Act must cede reinsurance to an assuming insurer which (i) maintains a surplus to policyholders in an amount not less than \$20 million, (ii) is actively licensed, and in good standing, in at least one state, and (iii) satisfies the applicable filing requirements set forth in subsection C of this section.

C. Filing Requirements.

1. When credit is requested for a domestic ceding insurer, the Commission may require that the ceding insurer file or cause to be filed:

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a. Evidence to support a finding by the Commission that the assuming insurer's state of domicile, or entry, employs standards regarding credit for reinsurance substantially similar to those set forth in the Act. Such evidence must be in a form acceptable to the Commission, and at the request of the Commission shall consist of statutes, regulations, and interpretations of the standards utilized by the state of domicile, or entry.

b. Such additional information, certifications, or reports of the assuming insurer as the Commission determines are necessary to verify the licensing status or financial condition of the assuming insurer.

2. When credit is requested for a foreign or alien ceding insurer, the Commission may require the ceding insurer to file or cause to be filed such information, certifications or reports of the assuming insurer as the Commission determines are necessary to verify the licensing status or financial condition of the assuming insurer.

3. When reinsurance is ceded by a domestic insurer and assumed pursuant to pooling arrangements among insurers in the same holding company, unless specifically required by the Commission, the \$20 million surplus to policyholder requirement shall be deemed waived. Notwithstanding this provision, the Commission may require the ceding insurer to file or cause to be filed:

a. A copy of the underlying pooling agreement.

b. Such additional information, certifications or reports of the members of the pooling arrangement as the Commission determines are necessary to verify the financial condition of the collective or individual members of the pooling arrangement.

Section 10. Credit for Reinsurance - Reinsurers Maintaining Trust Funds.

A. Pursuant to subsections A.4 of § 38.2-1316.2 or A.3 of § 38.2-1316.3 of the Act, the Commission shall allow credit for reinsurance ceded to a trustee assuming insurer which, as of the ceding insurer's statutory financial statement:

1. Maintains a trust fund and trustee surplus that complies with the provisions of subsection A.4 of § 38.2-1316.2 of the Act,

2. Complies with the requirements set forth below in subsections B, C and D of this section, and

3. Reports annually to the Commission on or before June 1 of each year in which a ceding insurer seeks reserve credit under the Act substantially the same information as that required to be reported on the

NAIC annual statement form by licensed insurers, to enable the Commission to determine the sufficiency of the trust fund. The accounting shall, among other things, set forth the balance to the trust and list the trust's investments as the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

B. When credit is taken for reinsurance ceded to any trustee assuming insurer, the Commission may require that the ceding insurer file or cause to be filed:

1. A copy of the trust agreement pertaining to the requisite trust funds along with a statement identifying and locating the specific provisions in the agreement which satisfy the form of trust requirements set forth below at subsection E.

2. Satisfactory evidence that the requisite trust funds are held in a qualified United States financial institution.

3. A certified statement and accounting of trustee surplus executed by a duly authorized officer or representative of the trustee assuming insurer.

4. A certified statement from the trustee of the trust listing the assets of the trust.

5. A certified English translation for any foreign language documents filed pursuant to the Act or this regulation.

C. When credit is requested for reinsurance ceded to trustee assuming insurer which is a group of individual unincorporated underwriters, the group shall make available to the Commission annual certifications of solvency of each underwriter member of the group, prepared by the group's domiciliary regulator and its independent accountant.

D. When credit is requested for reinsurance ceded to a trustee assuming insurer which is a group of incorporated insurers under common administration, the group shall:

1. file evidence of its submission to the Commission's authority to examine the books and records of any member of the group.

2. certify that any member examined will bear the expense of any such examination.

3. make available to the Commission annual certifications by the members' domiciliary regulators and their independent public accountants of the solvency of each member of the group.

4. if requested by the Commission, file copies of annual statements for the three-year period preceding

the initial request for credit, or other documents satisfactory to the Commission, which show that the group has continuously transacted an insurance business outside the United States for at least three (3) years.

E. Form of Trust. The trust required under § 38.2-1316.2:A4 of the Act and subsections A.1, A.3, B.1 and B.2 of Section 10 of this regulation shall provide that:

1. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States,

2. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest,

3. The trust and the assuming insurer shall be subject to examination as determined by the Commission,

4. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust,

5. No later than February 28 of each year the trustees of the trust (i) shall report to the Commission in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end and (ii) shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next December 31, and

6. No amendment to the trust shall be effective unless reviewed and approved in advance by the Commission.

Section 11. Credit for Reinsurance Required by Law.

When an assuming insurer fails to meet the requirements of §§ 38.2-1316.2 or 38.2-1316.3 of the Act, the ceding insurer may take credit pursuant to subparagraph 1 of § 38.2-1316.4 of the Act but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this section, "jurisdiction" means any state, district or territory of the United States and any lawful national government.

Section 12. Reduction from Liability for Reinsurance Ceded to an Assuming Insurer Not Meeting the Requirements of § 38.2-1316.2 or 38.2-1316.3.

A. A ceding insurer taking credit pursuant to subparagraph 2 of § 38.2-1316.4 of the Act for reinsurance ceded shall be allowed such reduction from liability only when the requirements of subparagraph 2 of § 38.2-1316.4

of the Act and sections 10, 11 or 12 of this regulation are met.

B. In determining the appropriateness of the proposed security arrangement or accounting treatment, the Commission may consider the guidelines and other criteria as set forth in the NAIC Examiners' Handbook, NAIC practice and procedure manuals, or annual statement instructions in effect when the Commission exercises discretion under the Act or this regulation.

Section 13. Trust Agreements Qualified under Section 12 of this Regulation and Paragraph 2 of § 38.2-1316.4 of the Act.

A. When a ceding insurer takes credit pursuant to paragraph 2 of § 38.2-1316.4 of the Act for reinsurance transactions secured by funds held in trust, the underlying trust agreement shall meet the following conditions:

1. The trust agreement shall be entered into between the beneficiary, the grantor and a trustee which shall be a qualified United States financial institution, as those terms are defined in this regulation.

2. The trust agreement shall create a trust account into which assets shall be deposited.

3. All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the Commission's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this section. If the Commission approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in subparagraph A.4 of this section must also be presentable, as a matter of legal right, at the trustee's principal office in the United States.

4. The trust agreement shall provide that:

a. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;

b. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;

c. It is not subject to any conditions or qualifications outside of the trust agreement;

d. It shall not contain references to any other agreements or documents except as provided for under paragraph 9 of this subsection;

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- e. At least thirty (30) days, but not more than forty-five (45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary; and*
- f. The trustee shall be liable for its own negligence, willful misconduct or lack of good faith.*
- 5. The trust agreement shall be established for the sole benefit of the beneficiary.**
- 6. The trust agreement shall require the trustee to:**
- a. Receive assets and hold all assets in a safe place;*
- b. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;*
- c. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;*
- d. Notify the grantor and the beneficiary, within ten (10) days, of any deposits to or withdrawals from the trust account;*
- e. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of such assets to such beneficiary; and*
- f. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.*
- 7. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.**
- 8. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee.**
- 9. The reinsurance agreement entered into in conjunction with such a trust agreement may, but need not, contain provisions required by subsection C.1.b. of this section, so long as these required conditions are included in the trust agreement.**
- B. When a ceding insurer seeks credit pursuant to**

paragraph 2 of § 38.2-1316.4 of the Act for reinsurance transactions secured by funds held in trust, the underlying trust agreement may contain the following provisions subject to all conditions set forth:

- 1. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety (90) days after receipt by the beneficiary and grantor of the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than 90 days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.*
- 2. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.*
- 3. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest such funds and to accept such substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in subsection C.1.b. of this section.*
- 4. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.*
- 5. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.*
- 6. Notwithstanding other provisions of this regulation, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may, notwithstanding any other conditions in this*

regulation, provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:

a. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

b. To make payment to the assuming insurer of any amounts held in the trust account that exceed 102 percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

c. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to such termination date, to withdraw amounts equal to such obligations and deposit such amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in this regulation apart from its general assets, in trust for such uses and purposes specified in Subparagraphs a and b above as may remain executory after such withdrawal and for any period after such termination date.

C. Conditions applicable to reinsurance agreements entered into by a ceding insurer which takes credit pursuant to paragraph 2 of § 38.2-1316.4 of the Act for reinsurance transactions secured by funds held in trust.

1. The reinsurance agreement may contain provisions that:

a. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what such agreement is to cover.

b. Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by Virginia Code § 38.2-1316.4 or any combination of the above, provided that such investments are issued by an institution that is not the parent, subsidiary, or affiliate of either the grantor or the beneficiary and, provided, further, that the amount of credit taken or reduction from liability allowed shall not, as a result of this

paragraph, exceed the amount of credit or reduction from liability allowed a domestic insurer pursuant to Title 38.2. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then such trust agreement may contain the provisions required by this paragraph in lieu of including such provisions in the reinsurance agreement.

c. Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments, endorsements in blank, or transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate any such assets without consent or signature from the assuming insurer or any other entity.

d. Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent.

e. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

(i) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

(ii) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;

(iii) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement, which account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses, and unearned premium reserves; and

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(iv) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

f. Give the assuming insurer the right to seek approval (which shall not be unreasonably or arbitrarily withheld) from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer such assets to the assuming insurer, provided:

(i) The assuming insurer shall, at the time of such withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or

(ii) After such withdrawal and transfer, the market value of the trust account is no less than 102 percent of the required amount.

g. Provide for:

(i) The return of any amount withdrawn in excess of the actual amounts required for subsections C.1.e.(i), (ii), and (iii), or in the case of subsection C.1.e.(iv), any amounts that are subsequently determined not to be due; and

(ii) Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to subsection C.1.e.(iii);

h. Permit the award by any arbitration panel or court of competent jurisdiction of:

(i) Interest at a rate different from that provided in the foregoing subparagraph g. (ii),

(ii) Court or arbitration costs,

(iii) Attorney's fees, and

(iv) Any other reasonable expenses.

2. With regard to financial reporting, a trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the Commission in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations, as defined in this Regulation, under the reinsurance agreement that the trust account was established to secure;

3. With regard to existing agreements and notwithstanding the effective date of this regulation, any trust agreement or underlying reinsurance agreement in existence prior to January 1, 1992 will continue to be acceptable until the first occurring anniversary or renewal date after December 31, 1991, at which time the agreements will have to be in full compliance with this regulation for the trust agreement to be acceptable; and

4. The failure of any trust agreement to specifically identify the beneficiary as defined in Section 5 of this regulation shall not be construed to affect any actions or rights which the Commission may take or possess pursuant to the provisions of the laws of this Commonwealth.

Section 14. Letters of Credit Qualifying for § 38.2-1316.4 Credit under Section 12 of this Regulation.

A. The letter of credit must be clean. It cannot be conditioned on the delivery of any other documents or materials. It shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented.

B. The letter of credit must be irrevocable. It must provide that it cannot be modified or revoked without the consent of the beneficiary, once the beneficiary is established.

C. The letter of credit must be unconditional. It shall indicate specifically that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in subsection J.1 below.

D. The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for such letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

E. The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

F. The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" which automatically renews the letter of credit for a time certain should the issuer of the same fail to affirmatively signify its intention to non-renew upon expiry and which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than 30 (thirty) days notice prior to expiry date for nonrenewal.

G. The letter of credit shall state whether it is subject to and governed by the laws of this Commonwealth, the ceding insurers state of domicile or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400), and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

H. If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400), then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 19 of Publication 400 occur.

I. The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to the applicable definitions contained within § 38.2-1316.1 of the Act.

J. When a letter of credit, issued by a financial institution not recognized by the Act and this regulation as a qualified United States financial institution authorized to issue letters of credit, is subsequently confirmed by a qualified United States financial institution, as described in subsection H of this section, then the following additional requirements shall be met:

1. The issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts, and
2. The "evergreen clause" shall provide for a period of no less than 60 (sixty) days' notice prior to expiry date for nonrenewal.

K. Reinsurance agreement provisions.

1. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions which:

- a. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover.
- b. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provision in such agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

(i) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners

of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

(ii) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;

(iii) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement (such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred and unearned premium reserves); and

(iv) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

c. All of the foregoing provisions of paragraph 1. of this subsection should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

2. Nothing contained in paragraph 1 of this subsection shall preclude the ceding insurer and assuming insurer from providing for:

- a. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to paragraph 1.b.(iii) of this subsection, and/or
- b. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the case of paragraph 1.b.(iv) of this subsection, any amounts that are subsequently determined not to be due.

3. When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health, where it is customary practice to provide a letter of credit for a specific purpose, then such reinsurance agreement may in lieu of paragraph 1.b. of this subsection, require that the parties enter into a "Trust Agreement" which may be incorporated into the reinsurance agreement or be a separate document.

L. A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the Commission unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement.

Section 15. Other Security.

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The Commission may allow credit pursuant to subparagraph 2.d of § 38.2-1316.4 of the Act for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

Section 16. Reinsurance Contract.

Credit will not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of sections 4, 5, 6, 7 or 9 of this regulation or otherwise in compliance with the Act after the adoption of this regulation unless the reinsurance agreement:

A. Includes proper insolvency clauses pursuant to subsections A.1 through A.3 of § 38.2-1316.5 of the Act; and

B. Includes a provision pursuant to subsection A.4 of § 38.2-1316.5 of the Act whereby the assuming insurer, if an unauthorized assuming insurer entering into a transaction with a domestic insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decisions of such court or panel.

Section 17. Contracts Affected.

All new and renewal reinsurance transactions entered into after December 31, 1991 shall conform to the requirements of the Act and this regulation if credit is to be given to the ceding insurer for such reinsurance.

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER TWENTY-FOUR (91)

VIRGINIA STATE FAIR RAFFLE DRAWING RULES

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the Virginia State Fair Raffle Drawing Rules for the lottery promotional events which will be conducted during the 1991 Virginia State Fair. The events will take place at the fairgrounds in Richmond from September 25 - October 6, 1991. These rules amplify and conform to the duly adopted State Lottery Department 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 October 7, 1991, unless otherwise extended by the Director.

/s/ Kenneth W. Thorson
Director
Date: September 17, 1991

DIRECTOR'S ORDER NUMBER TWENTY-SIX (91)

VIRGINIA'S TWENTY-FIRST INSTANT GAME LOTTERY; "MAGIC NUMBER," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's twenty-first instant game lottery, "Magic Number." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson
Director
Date: October 18, 1991

DIRECTOR'S ORDER NUMBER TWENTY-SEVEN (91)

"MAGIC NUMBER"; 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 "Magic Number" promotional game and drawing rules for the kickoff events which will be conducted at various lottery retailer locations throughout the Commonwealth on Thursday, October 24, 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 October 31, 1991, unless otherwise extended by the Director.

/s/ Kenneth W. Thorson
Director
Date: October 21, 1991

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

ALCOHOLIC BEVERAGE CONTROL BOARD

Title of Regulation: 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.

Governor's Comment:

I reserve my recommendation of the proposed changes pending a review of comments raised at public hearing.

/s/ Lawrence Douglas Wilder
Governor
Date: October 29, 1991

Title of Regulation: VR 125-01-2. Advertising.

Governor's Comment:

I reserve my recommendation of the proposed changes pending a review of comments raised at public hearing.

/s/ Lawrence Douglas Wilder
Governor
Date: October 29, 1991

Title of Regulation: VR 125-01-3. Tied House.

Governor's Comment:

I reserve my recommendation of the proposed changes pending a review of comments raised at public hearing.

/s/ Lawrence Douglas Wilder
Governor
Date: October 29, 1991

Title of Regulation: VR 125-01-4. Retail Operations.

Governor's Comment:

I reserve my recommendation of the proposed changes pending a review of comments raised at public hearing.

/s/ Lawrence Douglas Wilder
Governor
Date: October 29, 1991

Title of Regulation: VR 125-01-6. Manufacturers and Wholesalers Operations.

Governor's Comment:

I reserve my recommendation of the proposed changes pending a review of comments raised at public hearing.

/s/ Lawrence Douglas Wilder
Governor
Date: October 29, 1991

Title of Regulation: VR 125-01-7. Other Provisions.

Governor's Comment:

At this time, I have no substantive objection to the proposed changes in regulations and recommend approval as submitted.

/s/ Lawrence Douglas Wilder
Governor
Date: October 29, 1991

DEPARTMENT OF LABOR AND INDUSTRY

Title of Regulation: VR 425-01-81. Employment of Minors on Farms, in Gardens, and in Orchards.

Governor's Comment:

These regulations are intended to ensure that minors who work in the agriculture industry are not exposed to unsafe and unfair working conditions. Pending public comment, I recommend approval.

/s/ Lawrence Douglas Wilder
Governor
Date: October 25, 1991

STATE WATER CONTROL BOARD

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

Governor's Comment:

Because this amendment is intended to eliminate an unnecessary and burdensome regulation, I recommend approval.

/s/ Lawrence Douglas Wilder
Governor
Date: October 28, 1991

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

NOTICE

Notices of Intended Regulatory Action are being published as a separate section of the Register beginning with the October 7, 1991, issue. The new section appears at the beginning of each issue.



DEPARTMENT FOR THE AGING

Notice of Public Comment Period for 1991-95 Intrastate Title III Funding Formula

Notice is hereby given that the Department for the Aging will accept comments on the formula for the distribution within Virginia of funds received under Title III of the Older Americans Act of 1965, as amended. Interested persons may submit data, views, and arguments orally or in writing to the department.

The Older Americans Act of 1965, as amended, requires that the Department for the Aging develop and publish for review and comment an intrastate formula for the distribution of Title III funds to the Area Agencies on Aging. Public comment on the formula was solicited and received during June and July, 1989. The department does not intend to change the formula which has been in effect since October 1, 1989. 1990 Census data have been used to update the population-based factors in the formula.

The updated Title III intrastate funding formula is computed on the basis of (1) the number of persons 60 years of age and over, from the 1990 Census, (2) the number of persons 60 years of age and over at or below the poverty level, from the 1980 US Census, (3) the number of minority persons 60 years of age and over at or below the poverty level, from the 1980 Census, and (4) the number of persons 60 years of age and over who reside in rural areas of the state.

The formula factors and their weights are as follows:

Population 60+.....30%

Rural residents 60+..10%

Poverty 60+.....50%

Minority Poverty 60+..10%

Population 60+. This factor distributes Title III funds on the basis of the geographical location of older Virginians. It reflects the distribution of persons age 60 and over throughout the state.

Rural Residents 60+. The rural 60+ factor is utilized to denote the geographical isolation faced by older Virginians who live in the rural areas of the state. "Rural area" means a city or county which is not within a Metropolitan Statistical Area (MSA) according to the Bureau of the Census or a city or county which is within an MSA but which has a population density of less than 50 persons per square mile.

Poverty 60+. This factor distributes Title III funds to those areas of the state with the greatest number of older persons in economic need. The financial condition of the older person is a major determinant of his ability to meet basic life needs, such as food, shelter, clothing, health care, and mobility. This factor is an application of the definition of greatest economic need.

Minority Poverty 60+. The low income minority elderly factor addresses the racial barrier as well as the economic needs of this group of older persons.

Hold Harmless Provision. In Fiscal Year (FY) 1992, each Area Agency on Aging will be held harmless at its FY 1989 funding level. This means that an Area Agency's total funding will not be reduced below its FY 1989 funding level. An agency will no longer be held harmless when its formula share and sufficient funds allow it to exceed the FY 1989 funding level. The hold-harmless provision will allow implementation of the formula without significant shifts in funding and major disruption of services. Implementation of this allocation plan is contingent upon no decrease in federal and state funding below the FY 1989 level.

No Area Agency on Aging will receive less than \$100,000 in total funds distributed under this allocation plan.

What follows is a numerical statement of the funding formula to be used and a demonstration of the allocation of funds based on the formula:

General Notices/Errata

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

† Public Notice

PSA	FORMULA A	TITLE	TITLE	TITLE	TITLE	TITLE
		III-B	III-C(1)	III-C(2)	III-D	III-D
1	3.07823	202,744	135,592	87,173	4,620	1,782
2	3.11866	203,307	137,373	88,318	4,680	1,805
3	3.38562	362,401	237,230	152,517	8,083	3,118
4	2.93448	192,604	130,141	83,669	4,434	1,710
5	4.97958	324,622	219,345	141,018	7,473	2,883
6	5.06306	330,116	223,057	143,405	7,600	2,932
7	3.74690	244,262	165,047	106,109	5,623	2,169
8A	1.08721	122,033	47,890	30,783	1,632	629
8B	1.50457	189,927	66,275	42,608	2,258	871
8C	3.83722	357,125	169,906	109,234	5,789	2,233
8D	0.54403	35,466	23,364	15,407	817	315
8E	0.78308	51,441	34,758	22,346	1,184	457
9	2.77937	181,228	122,454	78,727	4,172	1,609
10	3.04363	198,807	134,333	86,363	4,577	1,765
11	4.17437	272,130	182,876	118,215	6,265	2,417
12	6.26872	408,661	276,130	177,525	9,408	3,629
13	3.56433	262,998	157,005	100,933	5,349	2,063
14	3.44828	224,795	151,893	97,653	5,173	1,996
15	10.22151	666,346	450,245	289,466	15,340	5,917
16	2.14530	133,853	94,498	60,753	3,220	1,242
17/18	4.01520	261,753	176,865	113,707	6,026	2,324
19	3.87857	252,846	170,846	109,836	5,821	2,245
20	13.57517	884,973	597,970	384,439	20,373	7,859
21	4.48129	292,138	137,336	126,307	6,725	2,534
22	2.28821	149,170	100,793	64,800	3,434	1,325

The Board of Agriculture and Consumer Services intends to adopt Regulations Pertaining to Food for Human Consumption, adopted by the Commissioner of Agriculture and Consumer Services on October 28, 1991, which are published in the "Final Regulations" sections of this issue of the Virginia Register.

This action is taken in concert with and pursuant to authority contained in § 3.1-398(a) of the Code of Virginia, which states that:

...Notwithstanding any other requirement under the Administrative Process Act (§§ 9-6.14:1 through 9-6.14:20 of the Code) to the contrary, the Commissioner may adopt any regulation under the federal act without public hearing. Such regulation shall be effective upon filing with the Registrar of Regulations. The board, at its next regular meeting, shall adopt the regulation after notice but without public hearing.

VIRGINIA COASTAL RESOURCES MANAGEMENT PROGRAM

† Request for Review of Draft Document

The 1990 reauthorization of the Coastal Zone Management Act (CZMA), as amended, established under § 309 a new Coastal Zone Enhancement Grants Program which sets aside from 10% to 20% of the states' federally-approved Coastal Zone Management funds to encourage the states to seek to achieve one or more of eight legislatively defined coastal management objectives. The states are to achieve these objectives by implementing changes to their coastal management programs; for instance, by amending their laws, regulations, or boundaries or by other means that improve management of their coastal resources.

As part of this process, the Council on the Environment is completing an assessment of the eight management objectives identified in the legislation, specifically:

- The protection, enhancement, or creation of coastal wetlands;
- The prevention or significant reduction of threats to life and property through the control of coastal development and redevelopment in hazardous areas, and the anticipation and management of sea level rise;
- The development of increased opportunities for public access;
- The reduction of marine debris by managing uses and activities contributing to marine debris;

The department will hold at least one public hearing on the formula. Refer to the Calendar of Events Section for the dates, times, and locations of the public hearings. Persons who testify at the hearing(s) are urged to provide a written copy of their comments to the hearing officer. An interpreter for the deaf and hard-of-hearing will be provided upon request.

Written comments on the formula may be submitted until 5 p.m. on December 6, 1991. Comments should be sent to Mr. J. James Cotter, Director, Divisions of Program Development and Management, 700 East Franklin Street, 10th Floor, Richmond, Virginia 23219-2327. To obtain further information, write to the department at the above address or call 1-800-225-2271 or toll-free in Virginia 1-800-552-4464.

- The development and adoption of procedures to address the cumulative and secondary impacts of coastal growth and development;
- The preparation and implementation of special area management plans;
- The development of plans for the use of ocean resources; and
- The adoption of procedures and policies to facilitate the siting of energy facilities and government facilities as well energy-related facilities and government activities which may be of greater than local significance.

The Council is requesting public comment on a draft of the assessment which will be made available for public review in mid-November, 1991. The public comment period will extend for 30 days. Written comments may be sent to the Council at the address shown below. In addition, the Council will accept oral comments at its upcoming quarterly meeting.

Copies of the assessment may be obtained at the Council on the Environment offices, located at 202 N. 9th Street, Suite 900, Richmond, Virginia. Copies may also be obtained by contacting, Lee Tetrault, Chesapeake Bay and Coastal Programs, Council on the Environment, 202 N. 9th Street, Suite 900, Richmond, Virginia 23219, telephone (804) 786-4500.

Following consideration of public comments, a final assessment will be produced by January 10, 1992. A multi-year strategy, addressing priority state concerns identified in the assessment, will be developed by the end of February 1992. The assessment and strategy will provide the basis by which the Council will apply for § 309 grant funds from the National Oceanic and Atmospheric Administration for use under Virginia's Coastal Resources Management Program.



DEPARTMENT OF HEALTH (STATE BOARD OF)

Public Notice

The State Board of Health has received a request from a group composed of well drillers and other individuals from Tidewater to amend the Private Well Regulations pertaining to Class IV (non-drinking water) wells. They propose two major changes:

1. Reduce the minimum separation distance between Class IV wells and building foundations treated by a chemical termiticide to 10 feet. The proposed minimum separation distance in the regulations is 25 feet if certain well construction and site conditions exist.

2. Allow the issuance of a well construction permit for Class IV wells immediately upon filing an application with a site plan and payment of the application fee. This permit would be issued without the local health department conducting a site visit to determine the proposed well site suitability. The well site would be subject to a post-construction inspection and approval by the local health department.

Comments on these proposals should be submitted to Gary L. Hagy, Assistant Director, Bureau of Sewage and Water Services, Virginia Department of Health, P.O. Box 2448, Richmond, VA 23218. Comments should be received by January 3, 1992.

DEPARTMENT OF LABOR AND INDUSTRY

Notice to the Public

The Virginia State Plan for the enforcement of occupational safety and health laws (VOSH) commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the Federal level. Therefore, the Virginia Department of Labor and Industry is issuing the following notice:

U.S. Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1910

Docket No. H-122

RIN 1218-AB37

Occupational Exposure to Indoor Air Pollutants; Request for Information

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Request for Information.

SUMMARY: In the September 20, 1991 issue of the Federal Register, the Occupational Safety and Health Administration (OSHA) published a notice of request for information on issues pertinent to indoor air quality in

General Notices/Errata

occupational environments (56 FR 47892). This notice raises major issues which OSHA needs to consider in determining whether regulatory action is appropriate and feasible to control health problems related to poor indoor air quality. The issues on which comment is requested are organized into five broad categories: (1) Definition of and Health Effects Pertaining to Indoor Air Quality; (2) Monitoring and Exposure Assessment; (3) Controls; (4) Local Policies and Practices; and (5) Potential Content of Regulations.

In addition to seeking information regarding Indoor Air Quality concerns in general, issues addressed in this notice also focus on specific indoor air contaminants, such as passive tobacco smoke (PTS), radon and bioaerosols. With respect to these particular contaminants, information is requested on their relative contribution to the overall degradation of indoor air quality as well as associated health effects and methods of exposure assessment and mitigation. The information received in response to this notice will assist OSHA to determine whether it is necessary and appropriate to pursue regulatory action concerning occupational exposures to indoor air contaminants.

DATES: Written comments concerning this notice of request for information on issues pertinent to occupational exposure to indoor air pollutants must be postmarked on or before January 21, 1992.

ADDRESSES: Comments should be submitted in quadruplicate to the Docket Officer, Docket No. H-122, room N-2625, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 523-7894.

An additional copy of your comments should be submitted to the Director of Enforcement Policy, Virginia Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219.

FOR FURTHER INFORMATION CONTACT: James F. Foster, Occupational Safety and Health Administration, Office of Public Affairs, Room N-3649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone (202) 423-8151.

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

DEPARTMENT OF COMMERCE

Title of Regulation: VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

Publication: 8:2 VA.R. 227-241 October 21, 1991.

Correction to Proposed Regulation:

Page 228, § 2.1 B 1, line 6, change "type" to "style."

Page 231, § 3.2 A, last sentence, change "(see § 2.16)" to "(see § 2.6)".

Page 238, § 6.12 4, last sentence, delete "and."

Page 239, § 6.14, first paragraph should read "Any unlawful act or violation of any of the provisions of Title 54.1, Chapter 21 or of Title 36, Chapter 5 of the Code of Virginia or of the regulations of the board by any real estate salesperson, employee, partner or affiliate of a principal or supervising broker, may not be cause for disciplinary action against the principal or supervising broker unless it appears to the satisfaction of the board that the principal broker, or supervising brokers or both,

knew or should have known of the unlawful act or violation.

Page 239, § 6.14, last two lines should read "that the principal broker, or supervising brokers or both, knew or should have known of the unlawful act or violation."

Title of Regulation: VR 585-01-05. Fair Housing Regulations.

Publication: 8:2 V.A.R. 260-280 October 21, 1991.

Correction to Final Regulation:

Page 268, first column, line 6, change "addition" to "addiction."

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

November 26, 1991 - 1 p.m. - Public Hearing
County Government Center, 1300 Courthouse Road, Stafford, Virginia. ☒ (Interpreter for deaf provided upon request)

A public hearing on the formula for the distribution within Virginia of funds received under Title III of the Older Americans Act of 1965, as amended. Interested persons may submit data, views, and arguments. Persons who testify at the hearing are urged to provide a written copy of their comments to the hearing officer. Refer to the General Notices section for more information.

Contact: Bill Fascitelli, Regulatory Coordinator, Virginia Department for the Aging, 700 E. Franklin Street, 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271, toll-free 1-800-552-4464, 1-800-552-4464/TDD ☎ or (804) 225-2271/TDD ☎

Long-Term Care Ombudsman Program Advisory Council

December 3, 1991 - 9 a.m. - Open Meeting
Beth Shalom Home of Central Virginia, 1200 Gayton Road, Richmond, Virginia. ☒

Business will include discussion of goals and objectives for 1992 and identifying priorities for the Long-Term Care Ombudsman Program.

Contact: Ms. Virginia Dize, State Ombudsman, Virginia Department for the Aging, 700 E. Franklin Street, 10th Floor, Richmond, VA 23219, telephone (804) 225-2271, toll-free 1-800-552-3402 or (804) 225-2271/TDD ☎

BOARD OF AGRICULTURE AND CONSUMER SERVICES

† **December 5, 1991 - 1 p.m. - Open Meeting**
† **December 6, 1991 - 9 a.m. - Open Meeting**
Washington Building, Room 204, 1100 Bank Street, Richmond, Virginia. ☒

The board will review issues relating to legislation, regulations, and fiscal matters and will receive reports from the staff of the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. At the conclusion of other business, the board will review public comments for a period not to exceed thirty minutes.

Contact: Roy Seward, Secretary to the Board, Virginia Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-3501 or (804) 371-6344/TDD ☎

STATE AIR POLLUTION CONTROL BOARD

November 22, 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 State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The proposed amendments to the regulations will provide the latest edition of referenced documents and incorporate recently promulgated federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS), which are found in Rules 5-5 and 6-1, respectively. The proposed

amendments will update as well the consolidated list of documents incorporated by reference found in Appendix M of the agency's regulations. The proposed amendments will incorporate the 1990-1991 edition of the American Conference of Governmental Industrial Hygienists' Handbook which forms the basis for the toxic pollutant rules, and three NSPS and four NESHAPS which were promulgated by EPA between July 1, 1989, and June 30, 1990.

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

Written comments may be submitted until November 22, 1991, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240.

Contact: Nancy S. Saylor, Policy Analyst, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249.

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

November 21, 1991 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☐

A meeting to (i) approve minutes from September 19, 1991 meeting; (ii) review correspondence; (iii) review enforcement files; and (iv) adopt proposed regulations as final.

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 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.

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.

ASAP POLICY BOARD - ROCKINGHAM/HARRISONBURG

† December 5, 1991 - 7 p.m. - Open Meeting
ASAP Office, 44 East Market Street, Harrisonburg, Virginia.

December quarter commission meeting.

Contact: Pam Simmons, Director, 44 East Market Street, Harrisonburg, VA 22801, telephone (703) 434-0154.

ASAP POLICY BOARD - VALLEY

† December 2, 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: Rhoda G. York, Executive Director, 2 Holiday Court, Staunton, VA 24401, telephone (703) 886-5616 or (703) 943-4405.

BOARD FOR BRANCH PILOTS

† December 2, 1991 - 9:30 a.m. - Open Meeting
Hasler & Company, 121 Tazewell Street, Norfolk, Virginia. ☐

A regular quarterly meeting to consider routine business.

Contact: Willie Fobbs, III, Assistant Director, Board for Branch Pilots, Department of Commerce, 3600 West Broad Street, Fifth Floor, Richmond, VA 23230-4917, telephone (804) 367-2194.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

December 5, 1991 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room A, 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. The board will elect officers. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by

Calendar of Events

November 27, 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

November 25, 1991 - 1 p.m. - Open Meeting
† December 9, 1991 - 1 p.m. - Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The 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

November 27, 1991 - 10 a.m. - Open Meeting
† December 11, 1991 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The 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

November 20, 1991 - 10 a.m. - Open Meeting
† December 4, 1991 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The 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 ☎

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

December 20, 1991 - 8:30 a.m. - Open Meeting
Office of Coordinator, Interdepartmental Regulation, 1603 Santa Rosa Road, Tyler Building, Suite 208, Richmond, Virginia. ☒

A regularly scheduled meeting to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Jr., Coordinator, Interdepartmental Regulation, Office of the Coordinator, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-7124.

BOARD OF COMMERCE

† February 24, 1992 - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A regular quarterly meeting. Agenda will likely consist of briefings from staff on the status of bills in the General Assembly that can have an impact upon agency operations, and agency regulatory programs.

Contact: Alvin D. Whitley, Secretary/Policy Analyst, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8564.

DEPARTMENT OF COMMERCE

December 9, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to repeal existing regulation VR 190-04-1 and adopt new regulations entitled: **VR 190-04-1:1. Private Security Services Businesses Regulations.** The proposed regulations have been reorganized to provide clarity in the licensing

procedures, entry requirements, renewal, fees, and the requirements that all applicants for licensure are in good standing and have not been convicted of a misdemeanor for felony in any jurisdiction.

Statutory Authority: §§ 54.1-1903 and 54.1-1904 of the Code of Virginia.

Written comments may be submitted until December 9, 1991.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8534.

STATE BOARD FOR COMMUNITY COLLEGES

November 20, 1991 - Time to be determined - Open Meeting

Board Room, 15th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia.

State board committee meetings.

November 21, 1991 - 9 a.m. - Open Meeting

Board Room, 15th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia.

A regular state board meeting. Agenda available by November 6, 1991.

Contact: Mrs. Joy Graham, Monroe Building, 101 North 14th Street, Richmond, VA, telephone (804) 225-2126.

COMPENSATION BOARD

November 21, 1991 - 5 p.m. - Open Meeting

December 19, 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, VA 23206-3886, telephone (804) 786-3886/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

Virginia Soil and Water Conservation Board

† December 11, 1991 - 9 a.m. - Open Meeting

Roanoke Airport Marriott, Grand Ballroom, Salons A and B, 2801 Hershberger Road, Roanoke, Virginia.

A bi-monthly meeting.

Contact: Donald L. Wells, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064.

BOARD FOR CONTRACTORS

Recovery Fund Committee

† December 5, 1991 - 9 a.m. - Open Meeting
3600 West Broad Street, Richmond, Virginia. ☒

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting is open to the public, however, a portion of the discussion may be conducted in Executive Session.

Contact: Vickie Brock, Recovery Fund Administrator, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-2394.

BOARD OF CORRECTIONS

December 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 Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

January 15, 1992 - 10 a.m. - Public Hearing

6900 Atmore Drive, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Corrections intends to amend regulations entitled: **VR 230-30-006. Work/Study Release Standards for Local Facilities**. The proposed regulations establish the minimum operational standards for work or study release programs in local correctional facilities.

Statutory Authority: §§ 53.1-5 and 53.1-131 of the Code of Virginia.

Written comments may be submitted until January 3, 1992.

Contact: Mike Howerton, Chief of Operations, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3041.

BOARD FOR COSMETOLOGY

November 18, 1991 - 10 a.m. - Open Meeting

Calendar of Events

Department of Commerce, 3600 W. Broad Street, Richmond, Virginia.

A meeting to conduct regulatory review.

Contact: Demetra Y. Kontos, Assistant Director, Board for Cosmetology, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

BOARD OF EDUCATION

† November 25, 1991 - 8 a.m. - Open Meeting
† November 26, 1991 - 8 a.m. - Open Meeting
James Monroe Building, Conference Rooms D and 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, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

January 6, 1992 - 9 a.m. - Public Hearing
Monroe Building, 101 North 14th Street, Rooms C and D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to adopt regulations entitled: VR 270-01-0054. Regulations Governing Reporting of Acts of Violence and Substance Abuse in Schools. The proposed regulations will establish a format and timelines for local school divisions to report to the Department of Education certain acts of violence and substance abuse.

Statutory Authority: § 22.1-280.1 of the Code of Virginia.

Written comments may be submitted until January 6, 1992.

Contact: H. Douglas Cox, Principal Specialist, Virginia Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2871.

STATE EDUCATION ASSISTANCE AUTHORITY

November 21, 1991 - 10 a.m. - Open Meeting
Second Floor Board Room, 411 East Franklin Street, Richmond, Virginia. ☒

A general business meeting.

Contact: Lyn Hammond, Executive Assistant, 411 East Franklin Street, Suite 300, Richmond, VA 23219, telephone (804) 775-4620, SCATS (804) 786-2035 or toll-free 1-800-792-LOAN.

VIRGINIA EDUCATION LOAN AUTHORITY

November 18, 1991 - 10 a.m. - Open Meeting
Third Floor Board Room, 737 North Fifth Street, Richmond, Virginia. ☒

A general business meeting.

Contact: Lyn Hammond, Executive Assistant, 411 East Franklin Street, Suite 300, Richmond, VA 23219, telephone (804) 775-4620, SCATS (804) 786-2035 or toll-free 1-800-792-LOAN.

STATE BOARD OF ELECTIONS

† November 25, 1991 - 10 a.m. - Open Meeting
Ninth Street Office Building, 6th Floor Conference Room, Richmond, Virginia.

A meeting to ascertain and certify the results of the November 5, 1991, general and special elections.

Contact: Lisa M. Strickler, Executive Secretary Senior, 200 North 8th Street, Room 101, Richmond, VA 23219, telephone (804) 786-6551, toll-free 1-800-552-9745 or 1-800-552-9745/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

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 Services, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF PRINCE WILLIAM, CITY OF MANASSAS, AND CITY OF MANASSAS PARK

November 18, 1991 - 1:30 p.m. - Open Meeting
December 16, 1991 - 1:30 p.m. - Open Meeting
1 County Complex Court, Potomac Conference Room, Prince William, Virginia. ☒

A multi-jurisdictional Local Emergency Planning Committee to discuss issues related to hazardous

substances in the jurisdictions. SARA Title III provisions and responsibilities for hazardous material emergency response planning.

Contact: John E. Medici, Hazardous Materials Officer, 1 County Complex Court, Prince William, VA 22192-9201, telephone (703) 792-6800.

VIRGINIA FIRE SERVICES BOARD

† **December 13, 1991 - 9 a.m. - Open Meeting**
Embassy Suites, 2925 Emerywood Parkway, Richmond, Virginia.

A regular meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Department of Fire Programs

November 21, 1991 - 7 p.m. - Public Hearing
Holiday Inn, Wytheville, Virginia.

† **December 12, 1991 - 7 p.m. - Public Hearing**
Embassy Suites, 2925 Emerywood Parkway, Richmond, Virginia.

A public hearing to discuss the role of the state fire marshal within the fire services community.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire/EMS Training and Education Committee

† **December 12, 1991 - 1 p.m. - Open Meeting**
Embassy Suites, 2925 Emerywood Parkway, Richmond, Virginia.

A regular meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control Committee

† **December 12, 1991 - 9 a.m. - Open Meeting**
Embassy Suites, 2925 Emerywood Parkway, Richmond, Virginia.

A regular meeting to discuss training and fire policies. The meeting is open to the public for comments and

input.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

† **December 12, 1991 - 1 p.m. - Open Meeting**
Embassy Suites, 2925 Emerywood Parkway, Richmond, Virginia.

A regular meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

Contact: Ann J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

November 18, 1991 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Conference Rooms 1, 3 and 4, Richmond, Virginia. ☒

Board Licensure Examinations will begin promptly at 9 a.m.

The full board will meet at 10 a.m. Committee meetings will begin after the full board meeting.

Public comments will be received during the first 30 minutes of the full board meeting from 10 a.m. until 10:30 a.m.

November 19, 1991 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

The board will hold informal conferences.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9907.

DEPARTMENT OF GENERAL SERVICES

December 6, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of General Services intends to amend regulations entitled: **VR 330-02-05. Requirements for Approval to Perform Prenatal Serological Tests for Syphilis.** The regulation defines the procedure to be followed for evaluating a laboratory's ability to perform syphilis serological testing.

Calendar of Events

Statutory Authority: § 32.1-60 of the Code of Virginia.

Written comments may be submitted until December 6, 1991.

Contact: James Blaine, Ph.D., Assistant Bureau Director, Division of Consolidated Laboratory Services, 1 North 14th Street, Richmond, VA 23219, telephone (804) 786-5453.

BOARD FOR GEOLOGY

November 22, 1991 - 10 a.m. - Open Meeting
3600 West Broad Street, 5th Floor, Richmond, Virginia. ☐

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8595.

VIRGINIA HAZARDOUS MATERIALS EMERGENCY RESPONSE ADVISORY COUNCIL

† December 5, 1991 - 10 a.m. - Open Meeting
Sheraton Park South, 9901 Midlothian Turnpike, Richmond, Virginia.

The business of the meeting will consist of (i) status report of the hazardous materials emergency response program; (ii) report on Title III planning of SARA; and (iii) report from the hazardous materials training subcommittee.

Contact: Addison E. Slayton, Jr., Department of Emergency Services, 310 Turner Road, Richmond, VA 23225, telephone (804) 674-2487.

HAZARDOUS MATERIALS TRAINING COMMITTEE

† November 22, 1991 - 1 p.m. - Open Meeting
Philip Morris U.S.A., Research and Development Center, 4201 Commerce Road, Richmond, Virginia.

A meeting to discuss curriculum, course development, and review existing hazardous materials courses.

Contact: Mr. N. Paige Bishop, 2873 Moyer Road, Powhatan, VA 23139, telephone (804) 588-3370.



DEPARTMENT OF HEALTH (STATE BOARD OF)

December 2, 1991 - 7 p.m. - Public Hearing
Washington County Public Library, Oak Hill and Valley Streets, Abingdon, Virginia.

December 3, 1991 - 7 p.m. - Public Hearing
Montgomery County Courthouse, 3rd Floor, Courtroom B, 1 East Main Street, Christiansburg, Virginia.

December 4, 1991 - 7 p.m. - Public Hearing
Appomattox County Courthouse, Court Street, Appomattox, Virginia.

December 9, 1991 - 7 p.m. - Public Hearing
Henrico County, Board Room, Administration Building, Parham and Hungary Springs Roads, Richmond, Virginia.

December 10, 1991 - 7 p.m. - Public Hearing
Harrisonburg Electric Commission, 2nd Floor Conference Room, 89 West Bruce Street, Harrisonburg, Virginia.

December 12, 1991 - 7 p.m. - Public Hearing
Juvenile and Domestic Relations Courtroom, Hobart Building, Routes 613 and 208, Spotsylvania, Virginia.

December 16, 1991 - 7 p.m. - Public Hearing
Old Board Chambers, 9250 Lee Avenue, Lee and Grant Avenues, Manassas, Virginia.

December 18, 1991 - 7 p.m. - Public Hearing
City Council Chambers, Municipal Center, Princess Anne & North Landing Roads, Virginia Beach, Virginia.

December 19, 1991 - 7 p.m. - Public Hearing
James City County Human Services Building, Auditorium, 5249 Olde Towne Road, Williamsburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: VR 355-34-100 (formerly 355-34-01). Private Well Regulations. The proposed regulations establish minimum location and construction standards for private wells and establish a permitting process for all private wells.

Statutory Authority: § 32.1-176 of the Code of Virginia.

Written comments may be submitted until January 3, 1992.

Contact: Gary L. Hagy, Assistant Director, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

November 26, 1991 - 9:30 a.m. - Open Meeting
† December 17, 1991 - 9:30 a.m. - Open Meeting
Blue Cross/Blue Shield, Virginia Room, 2015 Staples Mill Road, Richmond, Virginia. ☐

Calendar of Events

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 ☎

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January 15, 1992 – 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 Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The proposed regulation will amend regulations to require health care institutions to file certified audited financial statements with the council no later than 120 days after the end of the institutions's fiscal year. A 30-day extension could be granted for extenuating circumstances. A late charge of \$10 per working day would be assessed for filings submitted past the due date.

Statutory Authority: §§ 9-158, 9-159 and 9-164(2) of the Code of Virginia.

Written comments may be submitted until January 15, 1992.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

BOARD FOR HEARING AID SPECIALISTS

November 25, 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 Hearing Aid Specialists intends to amend regulations entitled: **VR 375-01-02. Board for Hearing Aid Specialists Regulations.** The proposed amendments will clarify fees, licensure requirements for physicians, licensure requirements for endorsements, and audiometer calibrations for hearing aid specialists.

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

Written comments may be submitted until November 22, 1991.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond,

VA 23230-4917, telephone (804) 367-8534.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

December 3, 1991 - 9 a.m. – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☎ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

COUNCIL ON INFORMATION MANAGEMENT

† **December 9, 1991 - 9 a.m.** – Open Meeting
1100 Bank Street, 9th Floor, Richmond, Virginia. ☎

A regular business meeting to consider adoption of Commonwealth of Virginia Information Technology Resource Management Policy and several Guidelines.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, 1100 Bank Street, Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

VIRGINIA INTERAGENCY COORDINATING COUNCIL ON EARLY INTERVENTION

† **December 11, 1991 - 9 a.m.** – Open Meeting
Barry Robinson Center, 443 Kempsville Road, Norfolk, 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.

Calendar of Events

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 40.1-114 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

† November 21 1991 - 10 a.m. - Open Meeting
James Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia. ☒

A regular meeting of the council to discuss and act on (i) part time apprenticeship; (ii) program evaluations; and (iii) deregistration procedures.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

Safety and Health Codes Board

† November 26 1991 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

A meeting to consider (i) Extension of Partial Stay to the Amendment to the General Industry and the Construction Industry Standards for Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite, 1910.1001 and 1926.58; and (ii) Technical Amendments to the Safety Standards for Stairways and Ladders Used in the Construction Industry, 1926.1050 through 1926.1060.

Contact: John J. Crisanti, Director, Enforcement Policy Office, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2384.

LIBRARY BOARD

January 21, 1992 - 9:30 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.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

STATE LOTTERY DEPARTMENT

† November 25, 1991 - 10 a.m. - Open Meeting
State Lottery Department, 2201 West Broad Street, Richmond, Virginia. ☒

A regular monthly meeting. 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 W. Broad Street, Richmond, VA 23220, telephone (804) 367-9433.

ADVISORY COMMISSION ON MAPPING, SURVEYING AND LAND INFORMATION SYSTEMS

† December 5, 1991 - 10 a.m. - Open Meeting
1100 Bank Street, 9th Floor Conference Room, Richmond, Virginia. ☒

A regular business meeting to consider MAP Accuracy Standards for Virginia.

Contact: Chuck Tyger, Chief Engineer, Systems and Software Management, Council on Information Management, 1100 Bank Street, Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

VIRGINIA MARINE PRODUCTS BOARD

† December 3, 1991 - 5:30 p.m. - Open Meeting
The Ramada Inn, 950 J. Clyde Morris Boulevard, Newport News, Virginia.

The board will meet to receive reports from the Executive Director of the Virginia Marine Products Board on finance, marketing, past and future program planning, publicity/public relations, and old/new business.

Contact: Shirley Estes Berg, 97 Main Street, Suite 103, Newport News, VA 23601, telephone (804) 594-7261.

MARINE RESOURCES COMMISSION

November 26, 1991 - 9:30 a.m. - Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for deaf provided if requested)

The commission will hear and decide marine environmental matters at 9:30 a.m.: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues.

The commission will hear and decide fishery management items at approximately 2 p.m.: regulatory proposals, fishery management plans, fishery conservation issues, licensing, shellfish leasing.

Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues, and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Cathy W. Everett, Secretary to the Commission, P. O. Box 756, Room 1006, Newport News, Virginia 23607, telephone (804) 247-8088.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

January 3, 1992 – 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 Case Management for the Elderly. VR 460-03-3.1102. Case Management Services.** This regulation proposes to make permanent policies which are substantially the same as the existing emergency regulation.

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

Written comments may be submitted until 4:30 p.m., January 3, 1992, to Ann E. Cook, Eligibility and Regulatory Consultant, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

† **January 17, 1992** – 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: **Fee-for-Service Reimbursement for Home Health Services. VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates—Other Types of Care. VR 460-03-4.1923. Establish Rate Per Visit.** This regulation proposes to make permanent the policy providing for the fee for service reimbursement to home health agencies which is currently in place with an emergency regulation.

STATEMENT

Basis and Authority: Section 32.1-325 of the Code of Virginia 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) § 9-6.14:9, for this agency's promulgation of proposed regulations subject to the Department of Planning and Budget's and Governor's reviews. Subsequent to the emergency adoption action, the agency is initiating the public notice and comment process as contained in Article 2 of the APA.

The Code of Federal Regulations, Title 42, Part 447, Subpart B, grants states the authority to change methods and standards for setting payment rates for all covered services.

Purpose: The purpose of this proposal is to supersede the existing emergency regulation which changed the reimbursement methodology for home health services to fee-based rather than cost-reimbursed.

Summary and Analysis: The section of the State Plan affected by this action is Attachment 4.19 B, Methods and Standards for Establishing Payment Rates—Other Types of Care. Home health services are provided by certified and licensed home health agencies (HHAs) on a part-time or intermittent basis to recipients in their residences. A recipient's residence excludes a hospital or nursing facility. The Department of Medical Assistance Services (DMAS) has provided reimbursement for home health services for recipients since 1969 when it became a federally mandated service. This proposed regulation is identical to the adopted emergency regulation.

Effective January 1, 1991, DMAS implemented utilization control and preauthorization procedures for home health services. These procedures were designed to prevent unnecessary use of services and to ensure that rendered care meets established written criteria and quality standards. The proposed fee-based reimbursement system ensures that efficiencies reflected in the new service utilization methodology are fully integrated with corresponding efficiencies in the reimbursement methodology.

Effective July 1, 1991, DMAS implemented an emergency regulation to reimburse HHAs at a flat rate per level of

Calendar of Events

visit for each type of service rendered by HHAs (i.e., licensed nursing, physical therapy, occupational therapy, speech-language pathology services, and home health aide services.) In addition, medical equipment and supplies left in the home and "extraordinary" transportation costs will be paid at specific rates. The payment rates must not exceed the provider's charges (charge to the general public) or the Medicaid rate which ever is lesser. The following discusses the methodology of the fee-for-service reimbursement methodology.

DMAS has established a flat rate for each level of service for those HHAs situated in one of three peer groups. These peer groups are determined by the geographic location of the HHAs operating office and are classified as: URBAN, RURAL, or NORTHERN VIRGINIA. The use of the Health Care Financing Administration (HCFA) designation of urban metropolitan statistical areas (MSAs) is incorporated in determining the appropriate peer group for these classifications.

A separate peer grouping is established within each peer group to distinguish between freestanding and hospital-based HHAs. This accounts for the higher costs of hospital-based agencies resulting from Medicare cost allocation requirements. The Department of Health's (DOH) agencies are established in a separate peer group due to their unique cost characteristics (only one consolidated cost report is filed for all DOH agencies). Rates are calculated as follows:

- a. Each HHA is placed in its appropriate peer group.
- b. HHAs' Medicaid cost per visit (exclusive of medical supplies costs) is obtained from the 1989 cost-settled Medicaid cost reports. Costs are inflated to a common point in time (June 30, 1991) by using the percent of change in the moving average factor from the Data Resources, Inc. (DRI) National Tables, Market Basket Index of Operating Costs for Home Health Agencies.
- c. HHAs per visit costs weighted by the number of Medicaid visits per discipline are ranked and a median determined for each peer group.
- d. The fee schedule shall be adjusted annually on or about January 1st, based on the DRI-National HHA forecast factor for the change in the moving average.

Billable durable medical equipment (DME) and supplies, defined as equipment and supplies remaining in the home beyond the time of the visit, will be reimbursed separately. To bill for DME, the agency must also be enrolled as a DME vendor.

Extraordinary transportation costs to and from the recipient's home may be recovered by the home health agency if the recipient resides outside of a 15-mile radius

of the home health agency's operating office. Payment will be set at a rate per mile as established by the General Services Administration in the Federal Travel Regulations, which are published in the Federal Register, times the excess mileage over the 15-mile radius. If a visit is within the 15-mile radius, the transportation cost is included in the visit rate; therefore, no additional reimbursement for transportation will be made. In order for a home health agency to receive reimbursement for transportation, the recipient must be receiving Medicaid home health services.

Home health agencies were required to file a "Final Medicaid Cost Report" to allow DMAS to cost-settle providers' methodology through June 30, 1991. Effective July 1, 1991, HHAs will be paid at rates established as outlined above.

The implementation of this reimbursement methodology requires billing changes and a change in the MMIS system. Each provider will have separate payment rates based upon peer group, geographic locality, and categories of visits (such as assessment visit, follow-up visit, or comprehensive care) as follows:

1. Nursing Care	Rate Per Visit/Per Category
2. Physical Therapy	Rate Per Visit/Per Category
3. Speech-Language Pathology	Rate Per Visit/Per Category
4. Occupational Therapy	Rate Per Visit/Per Category
5. Home Health Aide	Rate Per Visit
6. DME and Supplies	Rate Per Item
7. Extraordinary Transportation Services	Rate Per Mile

Impact: This amendment is budget neutral. This policy change is expected to produce cost avoidance in future years, which will be reflected in DMAS' budget forecast.

The HHA will no longer be required to file cost reporting forms, required under the former cost based reimbursement methodology, with DMAS.

A flat rate reimbursement system with add-ons for billable medical supplies and transportation should have a minimal effect on Medicaid recipients as long as strong utilization review procedures are implemented to monitor the delivery and quality of home health services. This system is expected to increase access for some recipients because additional reimbursement associated with transportation and medical supplies will provide incentive for HHAs to render services in rural areas. HHA reporting requirements will not be significantly affected because detailed recordkeeping is already required by Medicare.

Changes are being made to the computerized surveillance subsystem (SURS) to allow the compilation of home health providers' billing and recipients' services activities and to highlight exceptional activities for manual review.

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

Written comments may be submitted until 4:30 p.m.,

January 3, 1992, to Betty Cochran, Director, Division of Quality Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

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† **January 17, 1992** – 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. Amount, Duration, and Scope of Services: State Plan for Medical Assistance Relating to Reduction of Threshold Days for Hospital UR and Second Surgical Opinion Program.** The purpose of the proposed regulation is to promulgate permanent regulations to supersede the existing emergency regulations which provide for substantially the same policies.

STATEMENT

Basis and Authority: Section 32.1-325 of the Code of Virginia 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) § 9-6.14:9, for this agency's promulgation of proposed regulations subject to the Department of Planning and Budget's and Governor's reviews. Subsequent to the emergency adoption action, the agency is initiating the public notice and comment process as contained in Article 2 of the APA.

Purpose: The purpose of this proposal is to promulgate permanent regulations to supersede the current emergency regulations providing for the same policies.

Summary and Analysis: The section of the State Plan for Medical Assistance affected by this regulatory action is the Amount, Duration, and Scope of Services narrative (Attachment 3.1 A and B Supplement 1) for inpatient hospital services, outpatient hospital, and physician services.

Reduction of Threshold Days for Hospital Utilization Review (UR). DMAS adopted its current limits on inpatient hospital lengths of stay in 1982. For all admissions of patients 21 years of age and older that exceed 14 days (up to a maximum of 21 days), the hospital must attach medical justification records to the billing invoice. (Patients younger than 21 years must, by federal law, be exempt from this sort of service limit.) Each of these

claims is reviewed before payment by a registered nurse and all days determined not to be medically necessary are denied. The hospital is notified of these reduced days in its remittance vouchers.

Second Surgical Opinion Program. 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.

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 could 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.

Impact: The cost savings listed below are the same as those reflected in the existing emergency regulations.

Reduction of Threshold Days for Hospital Utilization Review. The major impact of reducing hospital UR days below the existing 14 is the number of pended claims by approximately 18,000 per year. This will result in far fewer hospital claims paid automatically by the computer system. The additional pended claims will require manual review requiring an estimated 2 additional utilization review analysts. The net savings, which has already been adjusted in the agency's budget on the basis of the emergency regulation, is expected to be approximately \$4.0 million (\$2.0 million NGF; \$2.0 million GF).

Second Surgical Opinion Program. 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.

Forms: The Inpatient Hospital Invoice is the only form required of providers related to the administration of hospital utilization review. The use of the Second Surgical Opinion form is being discontinued.

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

Calendar of Events

Written comments may be submitted until 4:30 p.m., January 17, 1992, to Mack Brankley, Director, Division of Client Services, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

BOARD OF MEDICINE

November 22, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to adopt regulations entitled: **VR 465-10-01. Certification for Radiological Technology Practitioners.** The proposed regulations establish educational requirements, examination, and fees for certification to practice as a Radiological Technology Practitioner.

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

Written comments may be submitted until November 22, 1991, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

Credentials Committee

December 14, 1991 - 8 a.m. - Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to (i) conduct general business; (ii) interview and review medical credentials of applicants applying for licensure in Virginia in open and executive session; and (iii) 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.

Executives Committee

December 13, 1991 - 9 a.m. - Open Meeting
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to review closed cases, cases/files requiring administrative action, and consider any other items which may come before the committee. Public

comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Board on Physical Therapy

January 17, 1992 - 9 a.m. - Open Meeting
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to (i) review and discuss regulations, bylaws, procedure manuals; (ii) receive reports; and (iii) discuss other items which may come before the advisory 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

December 13, 1991 - 1 p.m. - Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to review and discuss public comments and prepare recommendations to the full board on the proposed Regulations Governing the Practice of Radiological Technology Practitioners (VR 465-10-01). The Advisory Committee will not entertain public comments.

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

Joint Board Liaison Committee

† December 6, 1991 - 10 a.m. - Open Meeting
Department of Youth and Family Services, 700 Center Building, 7th and Franklin Streets, Richmond, Virginia. ☐

A quarterly meeting comprised of representatives of the Boards of Corrections, Education, Health, Medical Assistance Services, Mental Health, Mental Retardation, and Substance Abuse Services, Rehabilitative Services, Social Services, and Youth and Family Services. Agenda items include topics of common interest and the development of joint policies relative to clients who are mutually served.

Contact: Jane V. Helfrich, Board Administrator, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA

23214, telephone (804) 786-3921.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† December 4, 1991 - 10 a.m. - Open Meeting
Colonial Mental Health, Mental Retardation Services,
Williamsburg, Virginia. ☐

A regular monthly meeting. The agenda will be published on November 26, and may be obtained by calling Jane Helfrich.

Tuesday: Informal Session - 8 p.m.

Wednesday: Committee Meetings - 9 a.m.

Wednesday: Regular Session - 10 a.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

† December 4, 1991 - 10 a.m. - Open Meeting
Co-hosts: Colonial Mental Health, Mental Retardation Services and Eastern State Hospital. Meeting will be held at Eastern State Hospital, Williamsburg, Virginia. ☐

A regular monthly meeting. The agenda will be published on November 27, and may be obtained by calling Jane Helfrich.

Tuesday: Informal Session - 6 p.m.

Wednesday: Committee Meetings - 8:45 a.m.

Wednesday: Regular Session - 10 a.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

December 5, 1991 - 7 p.m. - Open Meeting
502 South Main Street, No. 4, Culpeper, Virginia.

From 7 p.m. to 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 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, No. 4, Culpeper, VA 22701, telephone (703) 825-4562.

MIGRANT AND SEASONAL FARMWORKERS BOARD

November 20, 1991 - 10 a.m. - Open Meeting
State Capitol Building, House Room 1, Richmond, Virginia. ☐

A regular meeting of the board. Immediately following the conclusion of the regular meeting, the Subcommittee on Complaint Resolution Process will meet.

Contact: Marilyn Mandel, Director, Planning and Policy Analysis, Virginia Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2385.

DEPARTMENT OF MOTOR VEHICLES

November 22, 1991 - 9 a.m. - Public Hearing
DMV Headquarters, Room 320, 2300 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14.7.1 of the Code of Virginia that the Department of Motor Vehicles intends to repeal existing regulations entitled VR 485-10-8401. Public Participation Guidelines and adopt new regulations entitled: VR 485-10-9191. Public Participation Guidelines for Regulation Development and Promulgation. The board proposes to repeal the existing regulation and establish new guidelines for receiving input and participation from interested citizens in the development of any regulation which the department proposes.

Statutory Authority: § 46.2-203 of the Code of Virginia.

Written comments may be submitted until January 3, 1992.

Contact: Peggy S. McCrerey, Planning Director, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-0429.

BOARD OF NURSING

November 18, 1991 - 9 a.m. - Open Meeting
November 19, 1991 - 9 a.m. - Open Meeting
November 20, 1991 - 9 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

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educational 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 Monday, November 18, 1991.

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 ☎

VIRGINIA OUTDOORS FOUNDATION

† December 16, 1991 - 10:30 a.m. - Open Meeting
Monticello, Charlottesville, Virginia. ☐

A general business meeting.

Contact: Tyson B. Van Auren, Executive Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-5539.

BOARD OF PHARMACY

November 23, 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 Pharmacy intends to amend regulations entitled: **VR 530-01-2. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.** The proposed amendment established a permanent fee for initial licensure of practitioners of the healing arts to sell controlled substances. The present fee was established pursuant to an emergency regulation which will expire on September 18, 1991.

Statutory Authority: §§ 54.1-2400 (6) and 54.1-3302 of the Code of Virginia.

Written comments may be submitted until November 23, 1991.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9911.

† December 5, 1991 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room #4, Richmond, Virginia.

Informal conferences.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9911.

Regulatory Review Committee

November 20, 1991 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room #4, Richmond, Virginia.

Regulatory review committee meeting. No public comments will be received at this meeting.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9911.

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

† November 21, 1991 - 10 a.m. - Open Meeting
† November 22, 1991 - 10 a.m. - Open Meeting
Wintergreen Resort Conference Center, Pryor's Porch, Virginia.

The commission will be reviewing results and recommendations from its eleven public meetings held in October as well as discussing potential 1992 and 1993 legislative and administrative actions.

Contact: Kathrine L. Imhoff, Executive Director, General Assembly Building, Room 519B, 910 Capitol Street, Richmond, VA 23219, telephone (804) 371-4949.

BOARD OF PROFESSIONAL COUNSELORS

November 18, 1991 - 9 a.m. - Open Meeting
9504 A Lee Highway, Fairfax, Virginia.

Examination committee meeting. No public comment will be received.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Department of Health Professions, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9912.

REAL ESTATE APPRAISER BOARD

November 19, 1991 - 2 p.m. - Public Hearing
Department of Social Services, Pembroke Office Park, Pembroke IV, Suite 300, Virginia Beach, Virginia.

November 20, 1991 - 2 p.m. - Public Hearing
Board of Supervisors Board Room, Massey Building, A Level, 4100 Chain Bridge Road, Fairfax, Virginia.

December 10, 1991 - 2 p.m. - Public Hearing
Department of Commerce, 3600 West Broad Street, 3rd Floor, Room 395, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the Real Estate Appraiser Board is withdrawing the proposed regulation published in 8:2 V.A.R. 206-226 October 21, 1991 and will adopt new regulations entitled: **VR 583-01-03. Real Estate Appraiser Board Regulations.** The purpose of the proposed regulations is to establish the qualifications for licensure and standards of practice for real estate appraisers.

STATEMENT

Basis, Purpose, Impact and Summary: Pursuant to Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 of the Code of Virginia and in accordance with Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia, the Real Estate Appraiser Board proposes to promulgate a new regulation governing real estate appraisers that will replace its existing regulation promulgated under the emergency provisions of the Administrative Process Act.

The proposed regulation requires the registration of business entities who provide appraisal services and the licensure of individuals providing services as a certified general, certified residential or licensed residential real estate appraiser. Procedures and qualifications for individuals desiring a temporary license and the requirement for instructors to be certified have been added. This regulation applies to an estimated 2,500 individuals, 500 business entities and 100 instructors over the next biennium.

The regulation establishes the qualifications for each category of licensure. The individual must be in good standing if licensed or certified in another jurisdiction, not have a criminal conviction, and meet current educational and experience requirements. For each category of licensure, additional specific education, experience and examination requirements are provided. Procedures and qualifications are also established for obtaining a temporary license. A fee schedule, established to assure compliance with § 54.1-113 of the Code of Virginia which requires that fees generated by the program cover the expenses of the program, is included in the body of the regulations. The examination fees are established by the vendor providing the service. The regulation also establishes the qualifications and procedures for renewal of a business registration, individual license and instructor certificate, as well as providing standards of conduct and professional practice. A new section has been added on the approval of educational courses for licensure and renewal.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Written comments may be submitted until January 18, 1992.

Contact: Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

December 10, 1991 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

Contact: Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

REAL ESTATE BOARD

November 21, 1991 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☐

A regular meeting of the board to consider board business including license applications and disciplinary cases.

Contact: Joan L. White, Assistant Director, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8552.

† **December 5, 1991 - 10 a.m. – Open Meeting**
Fredericksburg Juvenile and Domestic Relations Court Room, 601 Caroline Street, Third Floor, Fredericksburg, Virginia.

The board will meet to conduct a formal hearing: File No. 90-02360, Real Estate Board v. Nadine A. Burt.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 West Broad Street, Fifth Floor, Richmond, VA 23230, telephone (804) 367-8524.

November 21, 1991 - 2 p.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 Real Estate Board intends to amend regulations entitled: **VR 585-01-1. Virginia Real Estate Board Licensing Regulations.** The proposed regulations relate to the licensing and conducting of real estate business in accordance with established standards.

Statutory Authority: §§ 9-6.14:1, 54.1-201 and 54.1-2105 of the Code of Virginia.

Written comments may be submitted until January 5, 1992.

Contact: Joan L. White, Assistant Director, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8552.

Calendar of Events

BOARD OF REHABILITATIVE SERVICES

† December 5, 1991 - 10 p.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

† December 5, 1991 - 9 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review 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 Committee

† December 5, 1991 - 9 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to update legislation.

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 and Evaluation Committee

† December 5, 1991 - 9 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to review health care policy proposal.

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 ☎

STATE CERTIFIED SEED BOARD

December 12, 1991 - 1:30 p.m. - Open Meeting
104 F Hutcheson Hall, Blacksburg, Virginia. ☒

A meeting to report on program activities and review certification standards. Public comment will be received.

Contact: Dr. Robert Q. Cannell, Chairman, VPI and SU, 333 Smyth Hall, CSES Department, Blacksburg, VA 24061, telephone (703) 231-8653.

STATE BOARD OF SOCIAL SERVICES

November 20, 1991 - 2 p.m. - Open Meeting
November 21, 1991 - 9 a.m. (if necessary) - Open Meeting
Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ☒

A work session and formal business meeting.

Contact: Phyllis Sisk, Administrative Staff Specialist, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9236, toll-free 1-800-552-3431 or 1-800-552-7096/TDD ☎

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

November 30, 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 amend regulations entitled: VR 615-45-2. Child Protective Services Client Appeals. The purpose of the amendments to the regulation is to strengthen and clarify the hearing process for appeals of dispositions in child abuse and neglect cases.

Statutory Authority: § 63.1-248.6:1 of the Code of Virginia.

Written comments may be submitted until November 30, 1991, to Donna Douglas, Bureau of Client Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Margaret Friedenberg, Regulatory Coordinator, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

* * * * *

January 4, 1992 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: VR 615-33-01. Fee Requirements for Processing Applications. This regulation contains the requirements and procedures for licensees to follow in submitting the application processing fee which is to be submitted with all new and renewal applications. It also includes

a provision for a \$15 fee to be charged for checks which must be returned to the applicant because of insufficient funds.

Statutory Authority: §§ 63.1-25, 63.1-174.01 and 63.1-196.5 of the Code of Virginia.

Written comments may be submitted until January 4, 1992.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

* * * * *

† January 17, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: VR 615-01-36. **General Relief (GR) Program - Locality Options.** The purpose of the proposed amendment is to allow local departments of Social Services to continue options for assistance provided from the General Relief Program.

STATEMENT

Basis: These regulations are issued under authority granted to the Department of Social Services by § 63.1-25 of the Code of Virginia.

Purpose: These regulations continue the expanded General Relief Program authorized through emergency regulations. With more choices, local departments of social services can more nearly meet local needs.

Substance: These regulations specify options that local departments of social services can select and include in the local General Relief Program.

Issues: Whether the Department of Social Services should revise the General Relief Program to include the options available to local departments of social services under the emergency regulation.

Impact: More than half of the localities providing General Relief have implemented one of the options added by the emergency regulation. If the localities no longer have the choice of providing these options, many local General Relief Programs would have to be revised and fewer clients would be served.

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

Written comments may be submitted until January 17, 1992, to Ms. Diana Salvatore, Program Manager, Medical Assistance Unit, Virginia Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

GOVERNOR'S TASK FORCE ON SUBSTANCE ABUSE AND SEXUAL ASSAULT ON COLLEGE CAMPUSES

December 11, 1991 - 1 p.m. – Open Meeting
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☒

Task force meeting.

Contact: Kris Ragan, Staff Assistant, P.O. Box 1422, Richmond, VA 23211, telephone (804) 786-6316.

COMMONWEALTH TRANSPORTATION BOARD

November 20, 1991 - 2 p.m. – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

November 21, 1991 - 10 a.m. – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

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, 1491 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

VIRGINIA'S TRANSITION TASK FORCE

† December 5, 1991 - 10 a.m. – Open Meeting
Cedar Lodge Training Facility, Department of Youth and Family Services, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A quarterly meeting to address interagency and community issues regarding the transition from

Calendar of Events

secondary school for youths with disabilities. Public comment is invited from 11:30 to 12:30.

Contact: Dr. Sharon deFur, Associate Specialist, P.O. Box 6Q, Virginia Department of Education, Richmond, VA 23216, telephone (804) 225-3242 or 1-800-422-1098/TDD ☎

TRANSPORTATION SAFETY BOARD

† January 23, 1992 - 10 a.m. - Open Meeting
Department of Motor Vehicles, Room 702, 2300 West Broad Street, Richmond, Virginia. ☒

A meeting to discuss various transportation safety topics and issues.

Contact: William H. Leighty, Deputy Commissioner, 2300 West Broad Street, Richmond, VA 23269, telephone (804) 367-6614 or (804) 367-1752/TDD ☎

TREASURY BOARD

November 20, 1991 - 9 a.m. - Open Meeting
December 18, 1991 - 9 a.m. - Open Meeting
James Monroe Building, 3rd Floor, 101 North 14th Street, Richmond, Virginia. ☒

A regular meeting.

Contact: Belinda Blanchard, Assistant Investment Officer, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-2142.

BOARD OF VETERINARY MEDICINE

† December 4, 1991 - 8:30 a.m. - Open Meeting
Conference Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

General board business, formal hearing.

Contact: Terri H. Behr, 1601 Rolling Hills Drive, Richmond, Virginia, telephone (804) 662-9915.

VIRGINIA RACING COMMISSION

November 20, 1991 - 9:30 a.m. - Open Meeting
VSRS Building, 1200 East Main Street, Richmond, Virginia. ☒

A regular commission meeting and review of the first pari-mutuel race meeting in the Commonwealth.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208, telephone (804) 371-7363.

VIRGINIA VETERANS CARE CENTER

Board of Trustees

November 22, 1991 - 10 a.m. - Open Meeting
Capitol Building, House Room 4, Richmond, Virginia. ☒

A regular meeting to continue discussion of agenda and programs for the Virginia Veterans Care Center.

Contact: Arlene Smith, Cabinet Support Secretary, 633 Ninth Street Office Building, Richmond, Virginia 23212, telephone (804) 786-1201.

VIRGINIA VOLUNTARY FORMULARY BOARD

November 22, 1991 - 10 a.m. - Public Hearing
109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

The Virginia Voluntary Formulary Board will hold a public hearing on this date. The purpose of this hearing is to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on February 15, 1991, and the most recent supplement to that Formulary. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on November 22, 1991, will be made a part of the hearing record.

January 9, 1992 - 10:30 a.m. - Open Meeting
Washington Building, 2nd Floor Board Room, 1100 Bank Street, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor Street, Room B1-9, Richmond, Virginia 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

† December 5, 1991 - 9:30 a.m. - Open Meeting
The Water Control Board, 4900 Cox Road, Glen Allen, Virginia. ☒

This will be a working session from 9:30 a.m. until 11:30 a.m. The regular board meeting will start at 1 p.m.

Contact: Loraine Williams, Secretary, 101 N. 14th Street, Monroe Building, 11th Floor, Richmond, VA 23219, telephone (804) 225-2667, toll-free 1-800-552-2075 or (804) 371-8737/TDD ☎

STATE WATER CONTROL BOARD

November 21, 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 680-16-02. Roanoke River Basin Water Quality Management Plan.** The proposed amendment would delete those portions of the Plan to be covered by adoption, through a separate regulatory action, of the Upper Roanoke River Subarea Water Quality Management Plan.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until 4 p.m., December 6, 1991, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Wellford S. Estes, State Water Control Board, West Central Regional Office, P.O. Box 7017, Roanoke, Virginia 24019, telephone (703) 857-7432.

November 21, 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 680-16-02.1. Upper Roanoke River Subarea Water Quality Management Plan.** The proposal is to adopt the Upper Roanoke River Subarea Water Quality Management Plan which updates those portions of the Roanoke River Basin Water Quality Management Plan in the Upper Roanoke River Subarea. A separate regulatory action will amend the Basin Plan to delete those areas to be covered by the Subarea Plan.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until 4 p.m., December 6, 1991, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Wellford S. Estes, State Water Control Board, West Central Regional Office, P.O. Box 7017, Roanoke, Virginia 24019, telephone (703) 857-7432.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† November 26, 1991 - 8:30 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to discuss the request for proposals (RFPs) received regarding the board's examination and other business which may come before the board.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8534.



BOARD OF YOUTH AND FAMILY SERVICES

† December 13, 1991 - 10 a.m. - Open Meeting
Abingdon, Virginia.

† January 9, 1992 - 10 a.m. - Open Meeting
Fredericksburg, Virginia.

A general business meeting.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0692.



DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

† December 12, 1991 - 7 p.m. - Public Hearing
Abingdon, Virginia.

† January 8, 1992 - 7 p.m. - Public Hearing
Fredericksburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Youth and Family Services intends to adopt regulations entitled: **VR 690-30-001. Standards for Secure Detention Homes.** The purpose of the proposed regulation is to

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establish operating standards for the care and custody of youth in secure detention homes.

STATEMENT

Basis: Sections 66-10 and 16.1-311 of the Code of Virginia authorize the Board of Youth and Family Services to prescribe standards for secure detention homes for youth.

Purpose: This is a new regulation issued by the Board of Youth and Family Services. Standards for secure detention homes were previously under the authority of the Board of Corrections.

Substance: This regulation is an update and revision of VR 230-40-008 and 230-40-003, issued by the Board of Corrections in 1983 and 1987, respectively.

Issues: These standards were promulgated by the Board of Youth and Family Services to carry out the provisions of §§ 66-10 and 16.1-311 of the Code of Virginia. These standards are issued as a new regulation by the board which commenced operation on July 1, 1990. The standards will regulate the operation, services, and new facility design of secure detention homes.

Impact: All facilities meeting the definition of secure detention homes will be affected by these regulations. In FY 1991, there were approximately 11,900 admissions to the 17 detention homes in the Commonwealth.

The new standards substantially differ from the Board of Corrections standards in two areas:

1. The new standards call for more extensive health screening and care, particularly for youth held for more than 30 days. Some detention homes are already providing health services at levels approximating those called for in the new standards.
2. The new standards set architectural specifications for new facilities. However, these standards correspond to CORE Standards which are already in effect.

Statutory Authority: §§ 16.1-311 and 66-10 of the Code of Virginia.

Written comments may be submitted until January 31, 1992.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0692.

LEGISLATIVE

VIRGINIA CODE COMMISSION

November 27, 1991 - 10 a.m. - Open Meeting

General Assembly Building, Sixth Floor Conference Room, Richmond, Virginia.

The commission will continue its work on the revision of Title 28.1 (fish, oysters, shellfish, etc.) of the Code of Virginia, and will hold a general business meeting.

December 11, 1991 - 10 a.m. - Open Meeting
General Assembly Building, Sixth Floor Conference Room, Richmond, Virginia.

The commission will meet to discuss annual publication of the Code of Virginia, electronic publishing, and the proposed publication of a Virginia Administrative Code.

Contact: Joan W. Smith, Registrar of Regulations, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

HOUSE APPROPRIATIONS COMMITTEE

November 18, 1991 - 9:30 a.m. - Open Meeting
CHANGE OF LOCATION
Henrico County Government Center, Multipurpose Room, 3820 Nine Mile Road, Richmond, Virginia.

A monthly meeting.

Contact: Linda Ladd, General Assembly Building, 9th Floor, Richmond, VA 23219, telephone (804) 786-1837.

JOINT SUBCOMMITTEE STUDYING HUMAN IMMUNODEFICIENCY VIRUSES (AIDS)

November 25, 1991 - 10 a.m. - Open Meeting
December 18, 1991 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

The subcommittee will hear presentations and deliberations on issues related to testing. (HJR 438)

Contact: Norma Szakal, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE TO STUDY INCENTIVE AND OBSTACLES FACING BUSINESS WHEN MAKING LOCATION DECISIONS IN VIRGINIA

November 19, 1991 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

Issues concerning incentive and obstacles facing businesses making location decisions in Virginia will be discussed. (HJR 448)

Contact: Maria Everett, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING MATERNAL AND PERINATAL DRUG EXPOSURE

November 25, 1991 - 1:30 p.m. - Open Meeting
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia.

The subcommittee will meet to review initial drafts of legislation and receive update on statewide activities. (HJR 387)

Contact: Norma Szakal, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING THE EXISTING MECHANICS' LIEN LAWS

† December 4, 1991 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

The subcommittee will meet to proceed with agenda established at organizational meeting. (HJR 418)

Contact: Oscar Brinson, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

YOUTH SERVICES COMMISSION

December 3, 1991 - 9 a.m. - Open Meeting
General Assembly Building, House Appropriations Committee Room, 9th Floor, 910 Capitol Street, Richmond, Virginia.

Presentations by state agencies and statewide organizations and associations on their legislative agendas on youth related issues for the 1992 General Assembly session.

December 3, 1991 - 1 p.m. - Open Meeting
General Assembly Building, House Appropriations Committee Room, 9th Floor, 910 Capitol Street, Richmond, Virginia.

Commission business meeting.

Contact: Nancy H. Ross, Executive Director, or Mary R. Simmons, General Assembly Building, Room 517B, 910 Capitol Street, Richmond, VA 23219, telephone (804) 371-2481.

CHRONOLOGICAL LIST

OPEN MEETINGS

November 18

Cosmetology, Board for
Education Loan Authority, Virginia
Emergency Planning Committee, Local
- County of Prince William, City of Manassas and
City of Manassas Park
Funeral Directors and Embalmers, Board of
House Appropriations Committee
Professional Counselors, Board of

November 19

Funeral Directors and Embalmers, Board of
Incentive and Obstacles Facing Business When Making
Location Decisions in Virginia, Joint Subcommittee to
Study
Substance Abuse and Sexual Assault on College
Campuses, Governor's Task Force on

November 20

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
Community Colleges, State Board for
Migrant and Seasonal Farmworkers Board
Pharmacy, Board of
- Regulatory Review Committee
Social Service, State Board of
Transportation Board, Commonwealth
Treasury Board
Virginia Racing Commission

November 21

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
Community Colleges, State Board for
Compensation Board
Education Assistance Authority, State
† Labor and Industry, Department of
- Virginia Apprenticeship Council
† Population Growth and Development, Commission on
Real Estate Board
Social Service, State Board of
Transportation Board, Commonwealth

November 22

Board for Geology
† Hazardous Materials Training Committee
† Population Growth and Development, Commission on
Veterans Care Center, Virginia
- Board of Trustees

November 25

Chesapeake Bay Local Assistance Board
- Central Area Review Committee
† Education, Board of
† Elections, State Board of
Human Immunodeficiency Viruses, Joint Subcommittee
Studying

Calendar of Events

† Lottery Department, State
Maternal and Perinatal Drug Exposure, Joint
Subcommittee Studying

November 26

† Education, Board of
Marine Resources Commission
† Labor and Industry, Department of
- Safety and Health Codes Board
† Waterworks and Wastewater Works Operators, Board
for

November 27

Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Code Commission, Virginia

December 2

† ASAP Policy Board - Valley

December 3

Aging, Department for the
- Long-Term Care Ombudsman Program Advisory
Council
† Branch Pilots, Board for
Hopewell Industrial Safety Council
† Marine Products Board, Virginia
Youth Services Commission

December 4

† Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
† Mechanics' Lien Laws, Joint Subcommittee Studying
the Existing
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State
† Veterinary Medicine, Board of

December 5

† Agriculture and Consumer Services, Board of
† ASAP Policy Board - Rockingham/Harrisonburg
Chesapeake Bay Local Assistance Board
† Contractor, Board for
- Recovery Fund Committee
Emergency Planning Committee, Local - Chesterfield
County
† Hazardous Materials Emergency Response Advisory
Council, Virginia
† Mapping, Surveying and Land Information Systems,
Advisory Commission on
Middle Virginia Board of Directors and the Middle
Virginia Community Corrections Resources Board
† Pharmacy, Board of
† Real Estate Board
† Rehabilitative Services, Board of
- Finance Committee
- Legislation Committee
- Program and Evaluation Committee
† Transition Task Force, Virginia's
† Waste Management Board, Virginia

December 6

† Agriculture and Consumer Services, Board of
† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Joint Board Liaison Committee

December 9

† Chesapeake Bay Local Assistance Board
- Central Area Review Committee
† Council on Information Management

December 10

Real Estate Appraiser Board

December 11

† Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Code Commission, Virginia
† Conservation and Recreation, Department of
- Soil and Water Conservation Board
Corrections, Board of
† Interagency Coordinating Council on Early
Intervention, Virginia

December 12

† Fire Services Board, Virginia
- Fire/EMS Training and Education Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee
Seed Board, State Certified

December 13

Medicine, Board of
- Credentials Committee
- Executive Committee
- Advisory Committee on Radiological Technology
Practitioners
† Youth and Family Services, Board of

December 16

Emergency Planning Committee, Local
- County of Prince William, City of Manassas and
City of Manassas Park
† Outdoors Foundation, Virginia

December 17

† Health Services Cost Review Council, Virginia

December 18

Human Immunodeficiency Viruses, Joint Subcommittee
Studying
Treasury Board

December 19

Compensation Board

December 20

Residential Facilities for Children, Coordinating
Committee for Interdepartmental Regulation of

January 9, 1992

Voluntary Formulary Board, Virginia
† Youth and Family Services, Board of

January 17
Medicine, Board of
- Advisory Board on Physical Therapy

January 21
Library Board

January 23
† Transportation Safety Board

February 24
† Commerce, Board of

PUBLIC HEARINGS

November 19
Real Estate Appraiser Board

November 20
Real Estate Appraiser Board

November 21
Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
Fire Services Board, Virginia
- Department of Fire Programs
Real Estate Board
Water Control Board, State

November 22
Motor Vehicles, Department of
Voluntary Formulary Board, Virginia

November 25
Hearing Aid Specialists, Board for

November 26
Aging, Department for the

December 2
Health, Department of

December 3
Health, Department of

December 4
Health, Department of

December 8
Health, Department of

December 10
Health, Department of
Real Estate Appraiser Board

December 11
† Fire Services Board, Virginia
- Department of Fire Programs

December 12
Health, Department of
† Youth and Family Services, Department of

December 16
Health, Department of

December 18
Health, Department of

December 19
Health, Department of

January 6, 1992
Education, Department of

January 8, 1992
† Youth and Family Services, Department of

January 14
Labor and Industry, Department of

January 15
Corrections, Department of

Calendar of Events
