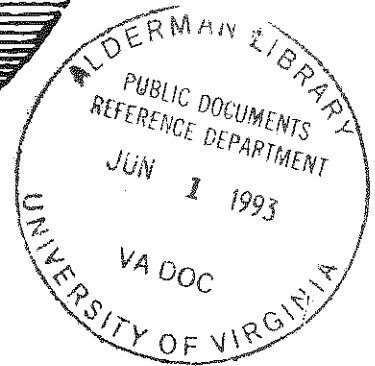
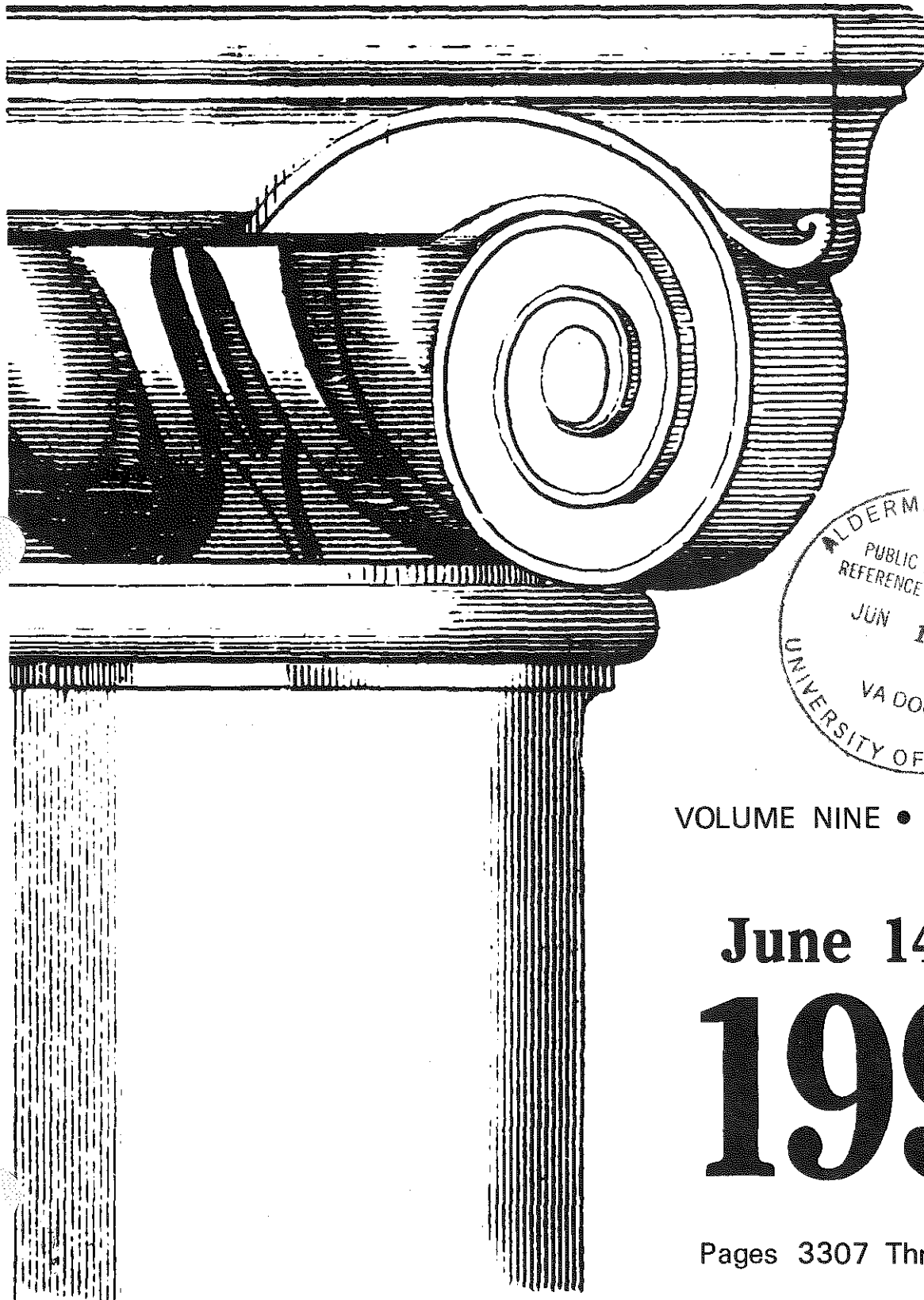


THE VIRGINIA REGISTER

OF REGULATIONS

VA
DOC



VOLUME NINE • ISSUE NINETEEN

June 14, 1993

1993

Pages 3307 Through 3528

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 the regulation becomes final.

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

"The *Virginia Register of Regulations*" (USPS-001831) is published bi-weekly, except four times in January, April, July and October for \$100 per year by the Virginia Code Commission, General Assembly Building, Capitol Square, Richmond, Virginia 23219. Telephone (804) 786-3591. Second-Class Postage Rates Paid at Richmond, Virginia. POSTMASTER: Send address changes to the *Virginia Register of Regulations*, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219.

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

Members of the Virginia Code Commission: Joseph V. Gartlan, Jr., Chairman, W. Tayloe Murphy, Jr., Vice Chairman; Russell M. Carneal; Bernard S. Cohen; Gail S. Marshall; E. M. Miller, Jr.; Theodore V. Morrison, Jr.; William F. Parkerson, Jr.; Jackson E. Reasor, Jr.

Staff of the Virginia Register: Joan W. Smith, Registrar of Regulations; Jane D. Chaffin, Assistant Registrar of Regulations.

VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

January 1993 through April 1994

MATERIAL SUBMITTED BY
Noon Wednesday

PUBLICATION DATE

Volume 9 - 1993

Dec. 23	Jan. 11, 1993
Jan. 6	Jan. 25
Jan. 20	Feb. 8
Feb. 3	Feb. 22
Feb. 17	Mar. 8
Mar. 3	Mar. 22
Mar. 17	Apr. 5
Index 2 - Volume 9	

Mar. 31	Apr. 19
Apr. 14	May 3
Apr. 28	May 17
May 12	May 31
May 26	June 14
June 9	June 28
Index 3 - Volume 9	

Jun. 23	July 12
July 7	July 26
July 21	Aug. 9
Aug. 4	Aug. 23
Aug. 18	Sept. 6
Sept. 1	Sept. 20
Final Index - Volume 9	

Volume 10 - 1993-94

Sept. 15	Oct. 4
Sept. 29	Oct. 18
Oct. 13	Nov. 1
Oct. 27	Nov. 15
Nov. 10	Nov. 29
Nov. 24	Dec. 13
Dec. 8	Dec. 27
Index 1 - Volume 10	

Dec. 22	Jan. 10, 1994
Jan. 5	Jan. 24
Jan. 19	Feb. 7
Feb. 2	Feb. 21
Feb. 16	Mar. 7
Mar. 2	Mar. 21
Mar. 16	Apr. 4
Index 2 - Volume 10	

TABLE OF CONTENTS

NOTICES OF INTENDED REGULATORY ACTION

Notices of Intent 3309

PROPOSED REGULATIONS

DEPARTMENT FOR THE AGING

Grants to Area Agencies on Aging. (VR 110-01-02) ... 3317

BOARD OF MEDICINE

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. (VR 465-09-01) 3338

DEPARTMENT OF THE TREASURY (THE TREASURY BOARD)

Virginia Security for Public Deposits Act Regulations. (VR 640-02) 3341

VIRGINIA WORKERS' COMPENSATION COMMISSION

Procedures for Processing Workers' Compensation Claims. (VR 405-01-06) 3353

FINAL REGULATIONS

BOARD OF DENTISTRY

Virginia Board of Dentistry Regulations. (VR 255-01-1) 3362

DEPARTMENT OF HEALTH (STATE BOARD OF)

Regulations Governing the Detection and Control of Phenylketonuria (Repealed). (VR 355-11-02) 3378

Regulations Governing the Newborn Screening and Treatment Program. (VR 355-11-200) 3378

DEPARTMENT OF LABOR AND INDUSTRY

Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia. (VR 425-01-26) 3380

LONGWOOD COLLEGE

Policy and Procedure Manuals and Handbooks. 3385

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

State Plan for Medical Assistance Relating to EPSDT and Inpatient Psychiatric Services.

Services. (VR 460-01-22) 3386

Amount, Duration and Scope of Services. (VR 460-03-3.1100) 3387

Standards Established and Methods Used to Assure High Quality Care. (VR 460-02-3.1300) 3399

Methods and Standards Used for Establishing Payment Rates—Other Types of Care. (VR 460-02-4.1920) 3419

BOARD OF MEDICINE

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. (VR 465-09-01) 3426

DEPARTMENT OF STATE POLICE

Regulations Relating to Standards and Specifications for the Slow-Moving Vehicle Emblem. (VR 545-01-02) 3429

Regulations Relating to Standards and Specifications for Motorcycle Windshields and Safety Glasses or Goggles for Motorcycle Operators. (VR 545-01-04) 3430

Regulations Relating to Standards and Specifications for Protective Helmets for Motorcycle Operators and Passengers. (VR 545-01-06) 3433

Regulations Relating to Saddle Mount Coupling for Drive-Away Service. (VR 545-01-10) 3434

STATE WATER CONTROL BOARD

Upper James River Basin Water Quality Management Plan. (VR 680-16-03) 3435

EMERGENCY REGULATIONS

REAL ESTATE BOARD

Virginia Real Estate Board Licensing Regulations. (VR 585-01-1) 3437

Table of Contents

DEPARTMENT OF STATE POLICE

Regulations Governing Purchases of Handguns in Excess of One Within a Thirty-Day Period. (VR 545-01-11) 3451

Regulations Governing the Creation of a Criminal Firearms Clearinghouse. (VR 545-01-12) 3456

BOARD OF YOUTH AND FAMILY SERVICES

Emergency Minimum Standards for the Detention of Juveniles in Jails and Lockups. (VR 690-80-001) 3459

STATE CORPORATION COMMISSION

ADMINISTRATIVE LETTERS

Bureau of Insurance

Special Data Call for Commercial Contractors Liability, Products and Completed Operations Liability, and Municipal Liability Insurance. (1993-8) 3463

Use of Final Rates Filed by Rate Services Organizations for Property and Casualty Lines of Insurance Other Than Workers' Compensation Insurance. (1993-10) 3478

ORDERS

Pay Telephone Registration Act. (PUC930013) 3478

FORMS

REAL ESTATE BOARD

Residential Property Disclaimer Statement. 3484

GOVERNOR

EXECUTIVE ORDERS

Establishing the Governor's Advisory Commission on the Revitalization of Virginia's Urban Areas. (64-93) 3485

Rescinding Emergency Travel Authorization for Trucks Hauling Goods to Disaster Areas in Florida and Louisiana. (67-93) 3485

Continuing the Governor's Commission on Defense Conversion and Economic Adjustment. (68-93) 3486

GOVERNOR'S COMMENTS

BOARD OF DENTISTRY

Board of Dentistry Regulations. (VR 225-01-1) 3487

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Regulations Governing Special Education Programs for Children with Disabilities in Virginia. (VR 270-01-0007) 3487

DEPARTMENTS OF EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; SOCIAL SERVICES; AND YOUTH AND FAMILY SERVICES

Standards for Interdepartmental Regulation of Residential Facilities for Children. (VR 270-01-003, VR 470-02-01, VR 615-29-02, VR 690-40-004) 3487

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Rules and Regulations of the Virginia Health Services Cost Review Council. (VR 370-01-002) 3487

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

State Plan for Medical Assistance Relating to EPSDT and Inpatient Psychiatric Services.

Services. (VR 460-01-22) 3488

Amount, Duration and Scope of Services. (VR 460-03-3.1100) 3488

Standards Established and Methods Used to Assure High Quality of Care. (VR 460-02-3.1300) 3488

Methods and Standards for Establishing Payment Rates—Other Types of Care. (VR 460-02-4.1920) 3488

Nursing Home Payment System (PIRS): Interim Settlement/Prospective Rate Time Frames, Audited Financial Statements and Appeal Notice Requirements. (VR 460-03-4.1920:1) 3488

BOARD OF PROFESSIONAL COUNSELORS

Regulations Governing the Practice of Professional Counseling. (VR 560-01-02) 3488

DEPARTMENT OF SOCIAL SERVICES

Human Subject Research Regulations. (VR 615-80-01) 3488

GENERAL NOTICES/ERRATA

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Administrative Procedure for Processing Violations for Civil Penalty Assessment and Actions on Certificates, Licenses, and Registrations. 3489

ALCOHOLIC BEVERAGE CONTROL BOARD

Notice to the Public of Public Hearing on Amendment of Regulations. 3491

AUDITOR OF PUBLIC ACCOUNTS

Specifications for Audits of Counties, Cities and Towns. 3491

DEPARTMENT OF HEALTH

Maternal and Child Health Block Grant Application Fiscal Year 1994. 3493

VIRGINIA CODE COMMISSION

Notice to the Public on Legislation Enacted Concerning Filing of Certain Documents. 3493

Notice of Request for Proposal. 3495

Notice of mailing address. 3497

Forms for filing material on dates for publication: .. 3497

ERRATA

CHILD DAY-CARE COUNCIL

Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger. (VR 175-08-01) 3497

Minimum Standards for Licensed Child Day Centers Serving School Age Children. (VR 175-09-01) 3497

STATE CORPORATION COMMISSION

Building Ordinance or Law Coverage. (1993-9) 3498

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings 3499

LEGISLATIVE

Open Meetings and Public Hearings 3525

CHRONOLOGICAL LIST

Open Meetings 3526

Public Hearings 3528

Table of Contents

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †

† Indicates entries since last publication of the Virginia Register

STATE AIR POLLUTION CONTROL BOARD

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider promulgating regulations entitled: **VR 120-99-05. Regulation for the Control of Emissions from Fleet Vehicles.** The purpose of the proposed action is to develop a regulation that will conform to the federal and state requirements for control of emissions from fleet vehicles in the Northern Virginia, Richmond and Hampton Roads ozone nonattainment areas.

Public meeting: A public meeting will be held by the department in House Committee Room Four, State Capitol Building, Richmond, Virginia, at 10:30 a.m. on Thursday, July 8, 1993, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad hoc advisory group: The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by close of business Monday, June 14, 1993, and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants by Thursday, June 24, 1993. If you are selected to be on the group, you are encouraged to attend the public meeting mentioned above and any subsequent meetings that may be needed to develop the draft regulation. The primary function of the group is to develop recommended regulation language for department consideration through the collaborative approach of regulatory negotiation and consensus.

Public hearing plans: The department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: The National Ambient Air Quality Standard for ozone is 0.12 parts per million (ppm) and was established by the U.S. Environmental Protection Agency (EPA) to protect the health of the general public with an adequate margin of safety. Ozone is formed when volatile organic compounds and nitrogen oxides in the ambient air react together in the presence of sunlight. When concentrations of ozone in the ambient air exceed the EPA standard the area is considered to be out of compliance and is classified as "nonattainment." Numerous counties and cities within the Northern Virginia, Richmond, and Hampton

Roads areas have been identified as ozone nonattainment areas according to new provisions of the 1990 Clean Air Act (Act); therefore, over 3.5 million Virginia citizens are being exposed to air quality that does not meet the federal health standard for ozone.

States are required to develop plans to ensure that areas will come into compliance with the federal health standard. Failure to develop adequate programs to meet the ozone air quality standard: (i) will result in the continued violations of the standard to the detriment of public health and welfare, (ii) may result in assumption of the program by EPA at which time the Commonwealth would lose authority over matters affecting its citizens, and (iii) may result in the implementation of sanctions by EPA, such as prohibition of new major industrial facilities and loss of federal funds for sewage treatment plant development and highway construction. Although the EPA has been reluctant to impose these sanctions in the past, the new Act now includes specific provisions requiring these sanctions to be issued by EPA if so warranted.

Of the consequences resulting from failure to develop an adequate program to control ozone concentrations in the ambient air, the most serious consequence will be the adverse impact on public health and welfare. Ozone not only affects people with impaired respiratory systems, such as asthmatics, but also many people with healthy lungs, both children and adults. It can cause shortness of breath and coughing when healthy adults are exercising, and more serious effects in the young, old, and infirmed.

Northern Virginia has been identified by EPA as having a serious ozone air pollution problem. The problem originates in large part from motor vehicle emissions including fleet vehicles. A vehicle emissions inspection program has been in place in Northern Virginia for 10 years to help reduce these emissions; however, substantially greater emission reductions are now required. The 1990 amendments to the Clean Air Act have required the fleet owners in the Northern Virginia nonattainment area to purchase vehicles that conform to stricter exhaust emission standards. These vehicles are known as Clean Fuel Fleet (CFF) vehicles.

In addition, the 1993 General Assembly adopted legislation that requires a clean fuel fleet program in the Richmond and Hampton Roads nonattainment areas. The legislation requires fleet owners to include an increasing percentage of CFF vehicles in their fleet purchases beginning in the 1998 model year. As more and more vehicles in the affected fleets become CFF vehicles the total emissions from the fleets will decrease. This, in turn, can substantially reduce the amount of volatile organic

Notices of Intended Regulatory Action

compounds emitted to the ambient air, thereby reducing the formation of ozone and lowering ozone concentrations.

Alternatives:

1. Adopt regulations which will provide for implementation of a clean fuel fleets program to satisfy the provisions of state law and the Clean Air Act and associated EPA regulations and policies.
2. Make alternative regulatory changes to those required by the Act. For example, one control measure that has been identified as an equivalent alternative to the clean fuel fleets program is a low emissions vehicle (LEV) program; however, legal authority to adopt a LEV program does not exist.
3. Take no action to adopt regulations and continue to operate fleets in violation of the Act and risk sanctions by EPA.

Costs and benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Applicable federal requirements: The 1990 amendments to the Clean Air Act delineates nonattainment areas as to the severity of the pollution problem. Nonattainment areas are now classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification is subject to successively more stringent control measures. Areas with higher classification of nonattainment must meet the requirements of all the areas in lower classifications. Virginia's nonattainment areas are marginal for the Hampton Roads nonattainment area, moderate for the Richmond nonattainment area, and serious for the Northern Virginia nonattainment area.

Section 246 (a) of Part C of Title II of the federal Act requires CFF programs in all urbanized areas with 1980 populations of 250,000 or more (as defined by the Bureau of Census) that are classified as serious or above ozone nonattainment areas.

The Act requires that a percentage of all new fleet vehicles purchased by each affected fleet operator in serious nonattainment areas (Northern Virginia) in model year 1998 and thereafter be clean-fuel vehicles. In addition, the law further requires that the vehicles shall use clean alternative fuels when operating in the covered areas. Fleet operators have their choice of CFF vehicles and type of clean fuel to be used and requires that the choice of fuel be made available to fleet operators. The phase-in requirements for new purchases are:

Vehicle Type & Gross Vehicle Weight (GVW)	Model Year 1998	Model Year 1999	Model Year 2000
Light-duty vehicles and trucks up to 6,000 lbs GVW	30%	50%	70%

Light-duty trucks between 6,000 and 8,500 GVW	30%	50%	70%
Heavy-Duty trucks above 8,500 GVW	50%	50%	50%

¹ Interpretation that LDTs over 6,000 GVW are included in the same phase-in schedule as LTDs below 6,000 pounds GVW.

Credit shall be provided to fleet operators for the purchase of more clean-fuel vehicles than required and/or the purchase of CFF vehicles which meet more stringent standards than required. Credits may be used to demonstrate compliance or may be sold or traded for other fleet operators to demonstrate compliance. Credits may be held or banked for later use with no decrease in the credit value.

In addition to the federal requirement for Northern Virginia, legislation passed by the Virginia General Assembly also requires the CFF program to be implemented in the Richmond and Hampton Roads areas. This requirement is not only for fleet vehicles registered in the affected nonattainment areas, but also applies to motor vehicles NOT registered in the nonattainment areas, but have either (i) a base of operations or (ii) a majority of their annual travel in one or more of the mentioned localities.

The law also provides for the development of regulations by the State Corporation Commission and the Department of Environmental Quality to ensure the availability of clean alternative fuels to affected fleet operators should it be deemed necessary.

Statutory Authority: § 46.2-1179.1 of the Code of Virginia (Chapters 234 and 571 of the 1993 Acts of Assembly).

Written comments may be submitted until the close of business Thursday, July 8, 1993, to the Director of Program Development, Air Division, Department of Environmental Quality, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Mary E. Major, Senior Policy Analyst, Program Development, Air Division, Department of Environmental Quality, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-7913.

ALCOHOLIC BEVERAGE CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Alcoholic Beverage Control Board intends to consider amending regulations entitled: VR 125-01-1 through 125-01-7. Regulations of the Virginia Alcoholic Beverage Control Board. The purpose of the proposed action is to receive information from industry, the general public, and licensees of the board concerning adopting, amending, or repealing the board's

Notices of Intended Regulatory Action

regulations. A public hearing will be held on Wednesday, October 27, 1993, at 10 a.m. in the First Floor Hearing Room, 2901 Hermitage Road, Richmond, Virginia, to receive comments from the public.

Statutory Authority: §§ 4-7(1), 4-11, 4-36, 4-69.2, 4-72.1, 4-98.14, and 4-103(b) of the Code of Virginia.

Written comments may be submitted until June 30, 1993.

Contact: Robert N. Swinson, Administrator to the Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

BOARD FOR BARBERS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Barbers intends to consider amending regulations entitled: **VR 170-01-1:1. Board for Barbers Regulations.** The purpose of the proposed action is to initiate the regulatory review process so as to solicit public comment regarding its current regulations and to make proposed amendments and other changes to the regulations which may be necessary.

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

Written comments may be submitted until June 17, 1993.

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

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 review and seek public comments on all of its regulations for promulgation, amendment and repeal in order to carry out its mission to protect the public through the regulation of licensed contractors.

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

Written comments may be submitted until June 21, 1993.

Contact: Florence R. Brassier, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

DEPARTMENT OF CORRECTIONS (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 Corrections intends to consider repealing regulations entitled: **VR 230-30-006. Jail Work/Study Release Program Standards.** The purpose of the proposed action is to repeal operational standards for locally operated work/study release programs. These standards are now included in VR 230-30-001, Minimum Standards for Jails and Lockups.

Statutory Authority: §§ 53.1-5 and 53.1-131 of the Code of Virginia.

Written comments may be submitted until June 17, 1993.

Contact: James S. Jones, Jr., Agency Regulatory Coordinator, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3262.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Corrections intends to consider promulgating regulations entitled: **VR 230-30-001:1. Minimum Standards for Jails and Lockups.** The purpose of the proposed action is to establish minimum standards for the administration and programs in jails and lockups.

Statutory Authority: §§ 53.1-5; 53.1-68 and 53.1-131 of the Code of Virginia.

Written comments may be submitted until July 14, 1993.

Contact: Mike Howerton, Chief of Operations, Division of Community Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3251.

DEPARTMENT OF GENERAL SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of General Services intends to consider repealing regulations entitled: **VR 330-02-06. Regulations for Approval of Laboratories to Analyze Public Drinking Water Supplies.** The purpose of the proposed action is to carry out the provisions of the Federal Safe Drinking Water Act, PL93-523; Chapter 6, Article 2, of Title 32.1 of the Code of Virginia; and Federal Regulations 40 CFR 141. These regulations will be replaced by VR 330-02-06:1.

Statutory Authority: Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia and 40 CFR 141.

Notices of Intended Regulatory Action

Written comments may be submitted until July 14, 1993.

Contact: Dr. James L. Pearson, Director, Division of Consolidated Laboratory Services, 1 North 14th Street, Richmond, VA 23219, telephone (804) 786-7905.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of General Services intends to consider promulgating regulations entitled: **VR 330-02-06:1. Regulations for the Certification of Laboratories Analyzing Drinking Water.** The purpose of the proposed action is to carry out the provisions of the Federal Safe Drinking Water Act, PL93-523; Chapter 6, Article 2, of Title 32.1 of the Code of Virginia; and Federal Regulations 40 CFR 141. Provides the mechanism to assure that laboratories are capable of providing valid data for compliance under the Safe Drinking Water Act.

Statutory Authority: Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia and 40 CFR 141.

Written comments may be submitted until July 14, 1993.

Contact: Dr. James L. Pearson, Director, Division of Consolidated Laboratory Services, 1 North 14th Street, Richmond, VA 23219, telephone (804) 786-7905.



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 repealing regulations entitled: **VR 355-19-06. Rules and Regulations Governing the Sanitary Control of Oysters, Clams and Other Shellfish.** The purpose of the proposed action is to replace current regulations with updated regulations.

Statutory Authority: § 28.2-801 of the Code of Virginia.

Written comments may be submitted until July 15, 1993.

Contact: Keith Skiles, Program Manager, Department of Health, Division of Shellfish Sanitation, 1500 E. Main St., Suite 105, Richmond, VA 23219, telephone (804) 786-7937.

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 355-30-000. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.** The purpose of the proposed action is to revise the current regulations to be consistent with the 1993 amendments to the Certificate of Public Need Law.

Statutory Authority: §§ 32.1-12 and 32.1-102 et seq. of the Code of Virginia.

Written comments may be submitted until June 23, 1993.

Contact: Wendy V. Brown, Project Review Manager, Department of Health, Office of Resources Development, 1500 E. Main St., Suite 105, Richmond, VA 23219, telephone (804) 786-7463.

BOARD OF HEALTH PROFESSIONS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health Professions intends to consider promulgating regulations entitled: **Regulations Governing Practitioner Self-Referral.** The purpose of the proposed action is to implement the Board of Health Professions' authority to administer and enforce the Virginia Practitioner Self-Referral Act. This is a request for general comments on proposed rulemaking only. Proposed regulations, when developed, will be submitted for comment under the provisions of the Administrative Process Act, and a public hearing will be held on the proposed regulations.

Statutory Authority: Chapter 869 of the 1993 Acts of Assembly.

NOTE: EXTENSION OF COMMENT PERIOD

Written comments may be submitted until July 14, 1993.

Contact: Richard D. Morrison, Ph.D., Executive Director, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9904 or facsimile (804) 662-9114.

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 promulgating regulations entitled: **VR 370-01-003. Regulations of the Virginia Health Services - Patient Level Data Base System.** The purpose of the proposed regulation is to implement the responsibilities of the council in relation to the Patient Level Data System in Virginia. Chapter 638 of the 1993 Acts of Assembly

Notices of Intended Regulatory Action

requires that the council adopt regulations regarding submission of patient level data by inpatient hospitals and regarding establishment of filing fees.

Statutory Authority: § 9-164 of the Code of Virginia and Chapter 638 of the 1993 Acts of Assembly.

Written comments may be submitted until June 15, 1993.

Contact: John A. Rupp, Executive Director, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

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 460-02-4.1910. Methods and Standards for Establishing Payment Rates - Inpatient Hospital Care: Nonenrolled Provider Reimbursement.** The purpose of the proposed action is to reimburse nonenrolled providers at amounts which are more consistent with reimbursement amounts for enrolled providers.

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

Written comments may be submitted until June 14, 1993, to Scott Crawford, Manager, Department of Medical Assistance Services, 600 East 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) 371-8850.

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-02-01. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture.** The purpose of the proposed regulation is to add §§ 2.1 D and 2.4 to specify professorial, fellowship, internship and residency limited licensure.

Statutory Authority: §§ 54.1-2400, 54.1-2936 and 54.1-2937 of the Code of Virginia.

Written comments may be submitted until July 2, 1993, to Hilary H. Conner, M.D., Executive Director, 6606 West

Broad Street, Richmond, VA 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., Richmond, VA 23229, telephone (804) 662-9908.

REAL ESTATE BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Board intends to consider amending regulations entitled: **VR 585-01-1. Real Estate Board Regulations.** The purpose of the proposed action is to undertake a review and seek public comments on all its regulations for promulgation, amendment and repeal as is deemed necessary in its mission to regulate Virginia real estate licensees.

Statutory Authority: § 54.1-200 of the Code of Virginia.

Written comments may be submitted until July 1, 1993.

Contact: Joan L. White, Assistant Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552.

VIRGINIA WASTE MANAGEMENT BOARD

Notice of Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-20-1. Financial Assurance Regulations of Solid Waste Facilities.** The purpose of the proposed action is to amend the Financial Assurance Regulations to be consistent with EPA criteria for municipal solid waste facilities, consider alternative mechanisms for financial responsibility and liability and to incorporate changes necessary to comply with 1993 legislation.

The current regulations are not consistent with the requirements of EPA Guideline Criteria for Municipal Solid Waste Facilities and must be amended to allow Virginia to become authorized for the full solid waste management program. Financial assurance for liability coverage requires environmental insurance which may not be readily available to many permitted facilities. The Code of Virginia in § 10.1-1410 requires the Waste Management Board to promulgate regulations. There are no appropriate alternatives to the amendment of existing regulations to assure effectiveness.

The purpose is to amend existing regulations to incorporate requirements contained in EPA Guidelines for Municipal Solid Waste Facilities and EPA Financial Assurance Guidelines for local governments which are

Notices of Intended Regulatory Action

under development by EPA. It is proposed to revise the applicability of the regulations, the liability coverage requirements and financial assurance mechanisms to be more efficient and effective in the establishment of funds necessary for facility closure and post-closure care of permitted facilities.

Comments are requested on the intended action to include recommendations on the regulations. Comments are requested on the costs and benefits of the regulations, amendments, and any proposed alternatives.

There will be a public meeting to solicit comments on the intended regulatory action on June 17, 1993 at 10 a.m. at the Department of Environmental Quality, WCB Board Room, 4900 Cox Road, Glen Allen, Virginia.

Statutory Authority: §§ 10.1-1402 and 10.1-1410 of the Code of Virginia.

Written comments may be submitted until July 1, 1993, to W. Gulevich, Department of Environmental Quality, 101 North 14th Street, 11th Floor, Richmond, Virginia 23219.

Contact: William F. Gilley, Regulatory Services Manager, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966.

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 690-14-22. Virginia Pollution Abatement (VPA) General Permit for Animal Feeding Operations.** The purpose of the proposed action is to adopt a general permit for animal feeding operations which establishes standard language for the limitations and monitoring requirements necessary to regulate the activities of this category of operations under the VPA permit program.

The basis for this regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program, § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys of investigations, and § 62.1-44.21 authorizes the board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Need: This proposed regulatory action is needed in order to establish appropriate and necessary permitting of the pollutant management activities at animal feeding operations and to further streamline the permitting process.

Substance and purpose: General permits may be issued for categories of dischargers that (i) involve the same or similar types of operations; (ii) manage the same or similar types of wastes; (iii) require the same effluent limitations or operating conditions; and (iv) require the same or similar monitoring. The purpose of this proposed regulatory action is to adopt a general permit for animal feeding operations with may operate and maintain treatment works for waste storage, treatment or recycle and which may perform land application of wastewater or sludges. The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate the activities of this category of operations under the VPA permit program. The possibility exists that more than one general permit may be developed to cover certain activities in this category of operations.

Estimated impact: There are several hundred animal feeding operations, including both concentrated and intensified operations, that may be required to be permitted under the VPA permit program and which may qualify for this proposed general permit. Adoption of these regulations will allow for the streamlining of the permit process as its relates to the covered categories of activities. Coverage under the general permit would reduce the paperwork, time and expense of obtaining a permit for the owners and operators in this category. Adoption of the proposed regulation would also reduce the manpower needed by the board for permitting these activities.

Alternatives: There are several alternatives for compliance with state requirements to permit pollutant management activities at animal feeding operations. One is the issuance of an individual VPA permit to each facility. The others include adopting general VPA permits to cover specific operations in this category of activities including concentrated and intensified operations.

Public meetings: The board's staff will hold public meetings at 7 p.m. on Thursday, June 3, 1993, at the Rockingham County Administrative Center, Board of Supervisors Room, 20 East Gay Street, Harrisonburg; at 7 p.m. on Thursday, June 17, 1993, at the Norfolk City Council Chamber, 810 Union Street, City Hall, Norfolk; and at 7 p.m. on Thursday, June 24, 1993, at the Roanoke County Administration Center, Community Room, 338 Brambleton Avenue, S.W., Roanoke, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Doneva Dalton at the address below or by telephone at (804) 527-5162.

Notices of Intended Regulatory Action

Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, May 17, 1993.

Applicable laws and regulations: State Water Control Law, Clean Water Act, and Permit Regulation (VR 680-14.01).

Statutory Authority: § 62.1-44 15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on June 30, 1993, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cathy Boatwright, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards (VR 680-21-07.1.b Potomac Embayment Standards)**. The purpose of the proposed action is to consider amendments to the Potomac Embayment Standards.

Need: The Board adopted the Potomac Embayment Standards (PES) in 1971 to address serious nutrient enrichment problems evident in the Virginia embayments and Potomac River at the time. These standards apply to sewage treatment plants discharging into Potomac River embayments in Virginia from Jones Point to the Route 301 bridge and for expansions of existing plants discharging into the nontidal tributaries of these embayments.

Based upon these standards, several hundred million dollars were spent during the 1970s and 1980s upgrading major treatment plants in the City of Alexandria and the Counties of Arlington, Fairfax, Prince William, and Stafford. Today these localities operate highly sophisticated advanced wastewater treatment plants which have contributed a great deal to the dramatic improvement in the water quality of the upper Potomac estuary.

Even before the planned upgrades at these facilities were completed, questions arose over the high capital and operating costs that would result from meeting all of the requirements contained in the PES. Questions also arose due to the fact that the PES were blanket effluent standards that applied equally to different bodies of water. Therefore, in 1978, the Board committed to reevaluate the PES. In 1984, a major milestone was reached when the Virginia Institute of Marine Science (VIMS) completed state-of-the-art models for each of the embayments. The Board then selected the Northern Virginia Planning District Commission (NVPDC) to conduct waste load allocation studies of the Virginia embayments using the VIMS models. In 1988, these studies were completed and effluent limits were developed for each major facility that would protect the embayments and the mainstream of the

Potomac River. However, the PES were not amended to reflect the results of these efforts.

Since the PES have not been amended or repealed, VPDES permits have included the PES standards as effluent limits. Since the plants cannot meet all of the requirements of the PES, the plant owners have operated under consent orders or consent decrees with operating effluent limits for the treatment plants that were agreed upon by the owners and the Board.

In 1991, several Northern Virginia jurisdictions with embayment treatment plants submitted a petition to the Board requesting that the Board address the results of the VIMS/NVPDC studies and that the PES be replaced with a descriptive process for establishing effluent limits for these plants to meet water quality standards. The petitioners claimed the current standards do not allow for scientifically based permit limits.

A Board staff workgroup was formed to consider the changes to the PES recommended by the petitioners. At their June 1991 meeting, the Board authorized holding a public hearing to solicit comments on proposed amendments based upon the recommendations of the work group. These amendments would allow permit by permit development of appropriate effluent limits for the affected discharges using the Board's Permit Regulation and Water Quality Standards Regulation. They would also apply a total phosphorus effluent limit of 0.18 mg/l which is the regionally agreed limit to protect the embayments and the upper Potomac estuary from nutrient enrichment.

Based upon the request of Fairfax County, a hearing was not scheduled on the proposed amendments so the petitioners could consider revisions to their original petition. By letter dated October 28, 1992, Fairfax County requested the Board to proceed with a revised petition to change the PES. The revised petition was supported by the Counties of Arlington, Prince William, and Stafford and the Alexandria Sanitation Authority.

Substance and purpose: The purpose of this proposed regulatory action is to consider amendments to the Potomac Embayment Standards.

Under the recent petition from the Northern Virginia localities for amending the PES, minimum effluent limits are retained in the Standards and state-of-the-art modeling is required to be performed for construction of any major new plant or expansion of an existing plant.

Information on the following issues would help the board develop appropriate amendments to the PES:

- adopting the amendments included with the revised petition from the local governments,
- repealing the Potomac Embayment Standards and using the Permit Regulation and Water Quality Standards Regulation to determine effluent limits,

Notices of Intended Regulatory Action

- replacing the standards with a comprehensive policy to protect the embayments (similar to the approach used with the Occoquan Policy),

- coverage of existing small sewage treatment plants and single family home discharges by the Potomac Embayment Standards.

Estimated impact: Amendments to the Potomac Embayment Standards would impact eight major and several smaller sewage treatment plants discharging to the Potomac embayments. Upgrading the existing treatment plants to meet the current standards would cost millions of dollars. The alternatives identified thus far for amending the current standards would result in significant cost savings.

Alternatives: Three alternatives have so far been identified: 1. no change to the current standards; 2. amend the standards to remove specific effluent limits and rely on the Permit Regulation and Water Quality Standards Regulation (approach previously authorized for hearing by the Board); or 3. amend the standards by changing the specific effluent limits (local government petition).

Public meeting: The Board will hold a public meeting to receive views and comments on the local government petition as well as other comments on amending the Potomac Embayment Standards. The meeting will be held at 7:00 p.m. on Wednesday, July 14, 1993, Fairfax County Government Center, Conference Center, Rooms 4 & 5, 12000 Government Center Parkway, Fairfax.

Accessibility to persons with disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Doneva Dalton at the address below or by telephone at (804) 527-5162. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, June 28, 1993.

Statutory Authority: § 62.1-44 15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on July 23, 1993, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Alan E. Pollock, Chesapeake Bay Program, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5155.

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 FOR THE AGING

Title of Regulation: VR 110-01-02. Grants to Area Agencies on Aging.

Statutory Authority: § 2.1-373 of the Code of Virginia.

Public Hearing Date: August 17, 1993 - 1 p.m.

Written comments may be submitted until August 14, 1993.

(See Calendar of Events section for additional information)

Summary:

The proposed amendments:

1. Delete provisions concerning the Long-Term Care Ombudsman Program (Part V), which will be part of a new regulation concerning elder rights to be proposed at a later date;

2. Delete certain definitions in § 1.2 because they are no longer relevant;

3. Limit § 2.1 to a description of planning and service areas only;

4. Delete the service descriptions in § 3.1 and add reference to the services standards promulgated by the department through its contracts with the area agencies on aging;

5. Delete several provisions in Part IV because they are not needed or because they are repetitive of federal grants management requirements; and

6. Incorporate certain editorial and technical changes, in part making the language in the regulation consistent with the 1992 amendments to the Older Americans Act (42 U.S.C. 3001 et seq.).

VR 110-01-02. Grants to Area Agencies on Aging.

PART I. INTRODUCTION.

§ 1.1. Purpose.

This regulation prescribes requirements which Area Agencies on Aging shall meet to receive and expend federal and state funds provided by the Virginia Department for the Aging to develop comprehensive and coordinated systems for the delivery of supportive and

nutrition services under authorized by Title III of the Older Americans Act, as amended (42 U.S.C. 3001 et seq.). These requirements include:

1. Designation and responsibilities of an Area Agency on Aging;
2. Development and implementation of an Area Plan for Aging Services; and
3. Administration of grants and contracts from the Virginia Department for the Aging; and
4. Operation of substate long-term care ombudsman programs.

§ 1.2. Definitions.

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

"Access services" means services associated with access to other services, such as consolidated access services, access and acquisition services, case management services, information and assistance services, and transportation services.

"Area" means the planning and service area served by an Area Agency on Aging.

"Area Agency on Aging" means the public or private nonprofit agency created pursuant to the federal Older Americans Act of 1965, as amended (42 U.S.C. 3001 et seq.) and incorporated by reference in this regulation, which has submitted an approved Area Plan and is designated by contract with the Virginia Department for the Aging to develop and administer its area plan as approved for a comprehensive and coordinated system of services for older persons.

"Area Plan for Aging Services" means the document submitted by an area agency to and approved by the Virginia Department for the Aging, as the scope of services in the executed contract, in order to receive funding under the Older Americans Act, as amended.

"Commissioner" means the Commissioner of the Virginia Department for the Aging.

"Complaint" means any written or oral allegation regarding (i) an action, inaction, or decision of a provider which adversely affects the rights, health, welfare, or safety of the person complaining or the recipient of

Proposed Regulations

services, or (ii) a violation of the regulations, policies or procedures which govern long-term care services, brought by or on behalf of a resident of a long-term care facility, regardless of age, or a recipient of long-term care services provided in the community who is at least 60 years of age.

"Complaint counseling" means information, guidance, and support to enable the complainant or the recipient of services to attempt to resolve the complaint or concern himself, if he so chooses or is able, by utilizing the complaint handling procedures of the long-term care facility or long-term care service provider.

"Contract" means the document of agreement wherein the Virginia Department for the Aging designates the contractor as the duly funded Area Agency on Aging, consistent with the federally approved State Plan for Aging Services, in consideration for which the area agency assures its specific performance of functions and services pursuant to the approved area plan.

"Frail" means having a physical or mental disability, including having Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, which restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently that the older person is determined to be functionally impaired because the person (i) is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or (ii) due to a cognitive or other mental impairment, requires substantial supervision because the person behaves in a manner that poses a serious health or safety hazard to the person or to another person.

"Government-sponsored Area Agencies" or "Area Agencies sponsored by governmental entities" means area agencies created as units of general purpose local governments, area agencies created through the joint exercise of powers, and area agencies created as units of community services boards. Included under this category of Area Agencies on Aging are: District III Governmental Cooperative, New River Valley Agency on Aging, Alexandria Office on Aging, Arlington Agency on Aging, Fairfax County Agency on Aging, Loudoun County Area Agency on Aging, Prince William Area Agency on Aging, Rappahannock-Rapidan Community Services Center - Aging Services, Jefferson Area Board for Aging, Lake Country Area Agency on Aging, and Crater District Area Agency on Aging. In instances where governmental-sponsored agencies need to be differentiated by their status as free-standing joint-exercise-of-powers agencies or units of a governmental entity, it has been so denoted.

"Grant" means an award of financial assistance in the form of money, or property instead of money, by the Virginia Department for the Aging to an Area Agency on Aging. The term includes such financial assistance when provided by contract.

"Grantee" or "contractor" means the government, nonprofit corporation, or other legal entity to which a grant is awarded and which is accountable to the Virginia Department for the Aging for the use of the funds provided.

"Greatest economic need" means the need resulting from an income level at or below the poverty level established by the federal Office of Management and Budget.

"Greatest social need" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation, including that isolation caused by racial or ethnic status, which restricts an individual's ability to perform normal daily tasks or which threatens such individual's capacity to live independently.

"In-home services" means (i) homemaker/personal care services, (ii) home care/companion services, (iii) home health services, chore services, (iv) homemaker services, (v) personal care services, (vi) checking services, (vii) residential repair and renovation services, and (viii) in-home respite care for families and adult day care as a respite service for families, and (ix) other in-home services as defined in the State Plan for Aging Services and in the Area Plan for Aging Services.

"Long-term care facility" means any facility outside of the service recipient's home in which two or more unrelated persons receive long-term care services, including, but not limited to, nursing homes licensed by the Department of Health, homes for adults licensed by the Department of Social Services, and geriatric treatment centers licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"Long-term care services" means diagnostic, preventive, therapeutic, rehabilitative, supportive, and maintenance services provided on a recurring or continuous basis for the purpose of (i) minimizing the effects of illness or disability, or both; (ii) assisting a person to maintain his highest level of functioning, or (iii) maintaining or restoring independence. Such services may be provided in the recipient's home or in a community setting such as a long-term care facility.

"Local ombudsman entity" means an organizational unit within an Area Agency on Aging which the Virginia Department for the Aging designates, through contract with the Area Agency on Aging, to fulfill the duties of the Office of the State Long-Term Care Ombudsman in a specific geographic area.

"Office of the State Long-Term Care Ombudsman" means the program administered and managed by the Virginia Department for the Aging, which serves as a point of entry, whereby a complaint is received, investigated or referred for investigation, and resolved.

"Older person" or "elderly" or "older individual" means any individual who is 60 years of age or older, unless otherwise indicated.

"Planning and service area" (PSA) or "area" means a geographic area of the Commonwealth which is designated for purposes of planning, development, delivery, and overall administration of services under an area plan. Unless otherwise exempted, such planning and service areas shall be coterminous with the planning districts established by the Virginia Department of Planning and Budget, pursuant to §§ 2.1-391 and 15.1-1402(a) of the Code of Virginia.

"Private nonprofit Area Agency on Aging" means those Area Agencies created independently of a local governing body or bodies. They include Mountain Empire Older Citizens, Appalachian Agency for Senior Citizens, League of Older Americans, Valley Program for Aging Services, Shenandoah Area Agency on Aging, Central Virginia Commission on Aging, Southern Area Agency on Aging, Piedmont Senior Resources, Capital Area Agency on Aging, Rappahannock Area Agency on Aging, Northern Neck-Middle Peninsula Agency on Aging, Southeastern Virginia Area-wide Model Program, Peninsula Area Agency on Aging, and Eastern Shore Community Development Group.

"Subgrant" means an award of financial assistance in the form of money, or property instead of money, made under a grant by an Area Agency on Aging to an eligible subgrantee. The term includes such financial assistance when provided by contract.

"Subgrantee" or "subcontractor" means the government, nonprofit corporation, or other legal entity to which a grant is awarded and which is accountable to an Area Agency on Aging for the use of the funds provided.

"Substate Long-Term Care Ombudsman Program" means an organizational unit within an Area Agency on Aging which the Virginia Department for the Aging designates, through contract with the Area Agency on Aging, to fulfill the duties of the Office of the State Long-Term Care Ombudsman in a specific geographic area.

"Unit of general purpose local government" means a political subdivision of the state whose authority is general and not limited to only one function or combination of related functions.

§ 1.3. Applicability of other regulations.

Several other regulations apply to all activities conducted with Title III funds. These include, but are not limited to: 1. 45 CFR Part 1321: Grants to State and Community Programs on Aging;

2. 45 CFR Part 74: Administration of Grants; and
3. 45 CFR Part 84: Nondiscrimination on the Basis of

Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Participation.

PART II. AREA AGENCIES ON AGING.

§ 2.1. Planning and service areas.

A. The following are currently accepted as Virginia's Planning and Service Areas for purposes of execution of the provisions of 42 U.S.C. § 3001 et seq. (the "Older Americans Act") and the federal regulations promulgated thereunder (45 C.F.R. § 1321). The respective Area Agencies on Aging, under contract with the Virginia Department for the Aging as of the date of these regulations, are named herein for identification but may be subject to change, pursuant to § 2.2 of these regulations.

Planning and Service Area 1

Mountain Empire Older Citizens, Inc.
Wise, Virginia

Serves Lee, Scott, and Wise Counties; the City of Norton.

Planning and Service Area 2

Appalachian Agency for Senior Citizens, Inc.
Richlands, Virginia

Serves Buchanan, Dickenson, Russell, and Tazewell Counties.

Planning and Service Area 3

District III Governmental Cooperative
Marion, Virginia

Serves Bland, Carroll, Grayson, Smyth, Washington, and Wythe Counties; the Cities of Bristol and Galax.

Planning and Service Area 4

New River Valley Agency on Aging
Pulaski, Virginia

Serves Floyd, Giles, Montgomery, and Pulaski Counties; the City of Radford.

Planning and Service Area 5

League of Older Americans, Inc.
Roanoke, Virginia

Serves Alleghany, Botetourt, Craig, and Roanoke Counties; the Cities of Clifton Forge, Covington, Roanoke, and Salem.

Proposed Regulations

Planning and Service Area 6

Valley Program for Aging Services, Inc.
Waynesboro, Virginia

Serves Augusta, Bath, Highland, Rockbridge, and Rockingham Counties; the Cities of Buena Vista, Harrisonburg, Lexington, Staunton, and Waynesboro.

Rappahannock-Rapidan Community Services Center -
Aging Services
Culpeper, Virginia

Serves Culpeper, Fauquier, Madison, Orange, and Rappahannock Counties.

Planning and Service Area 7

Shenandoah Area Agency on Aging, Inc.
Front Royal, Virginia

Serves Clarke, Frederick, Page, Shenandoah, and Warren Counties; the City of Winchester.

Planning and Service Area 10

Jefferson Area Board for Aging
Charlottesville, Virginia

Serves Albemarle, Fluvanna, Greene, Louisa, and Nelson Counties; the City of Charlottesville.

Planning and Service Area 8A

City of Alexandria
(Alexandria Area Agency on Aging)
Alexandria, Virginia

Serves the City of Alexandria.

Planning and Service Area 11

Central Virginia Commission on Aging, Inc.
Lynchburg, Virginia

Serves Amherst, Appomattox, Bedford, and Campbell Counties; the Cities of Bedford and Lynchburg.

Planning and Service Area 8B

Arlington County
(Arlington Agency on Aging)
Arlington, Virginia

Serves Arlington County.

Planning and Service Area 12

Southern Area Agency on Aging, Inc.
Martinsville, Virginia

Serves Franklin, Henry, Patrick, and Pittsylvania Counties; the Cities of Danville and Martinsville.

Planning and Service Area 8C

Fairfax County
(Fairfax County Area Agency on Aging)
Fairfax, Virginia

Serves Fairfax County; the Cities of Fairfax and Falls Church.

Planning and Service Area 13

Lake Country Area Agency on Aging
South Hill, Virginia

Serves Brunswick, Halifax, and Mecklenburg Counties ; the City of South Boston .

Planning and Service Area 8D

Loudoun County
(Loudoun County Area Agency on Aging)
Leesburg, Virginia

Serves Loudoun County

Planning and Service Area 14

Piedmont Senior Resources, Inc.
Burkeville, Virginia

Serves Amelia, Buckingham, Charlotte, Cumberland, Lunenburg, Nottoway, and Prince Edward Counties.

Planning and Service Area 8E

Prince William County
(Prince William Area Agency on Aging)
Manassas, Virginia

Serves Prince William County; the Cities of Manassas and Manassas Park.

Planning and Service Area 15

Capital Area Agency on Aging, Inc.
Richmond, Virginia

Serves Charles City, Chesterfield, Goochland, Hanover, Henrico, New Kent, and Powhatan Counties; the City of Richmond.

Planning and Service Area 9

Rappahannock Area Agency on Aging, Inc.
Fredericksburg, Virginia

Planning and Service Area 16

Proposed Regulations

Serves Caroline, King George, Spotsylvania, and Stafford Counties; the City of Fredericksburg.

Planning and Service Area 17/18

Northern Neck Middle Peninsula Agency on Aging, Inc.
Urbanna, Virginia

Serves Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, and Westmoreland Counties.

Planning and Service Area 19

Crater District Area Agency on Aging
Petersburg, Virginia

Serves Dinwiddie, Greensville, Prince George, Surry, and Sussex Counties; the Cities of Colonial Heights, Emporia, Hopewell, and Petersburg.

Planning and Service Area 20

Southeastern Virginia Areawide Model Program, Inc.
Norfolk, Virginia

Serves Isle of Wight and Southampton Counties; the Cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk, and Virginia Beach.

Planning and Service Area 21

Peninsula Agency on Aging, Inc.
Newport News, Virginia

Serves James City and York Counties; the Cities of Hampton, Newport News, Poquoson, and Williamsburg.

Planning and Service Area 22

Eastern Shore Community Development Group, Inc.
Onancock, Virginia

Serves Accomack and Northampton Counties.

B. Pursuant to §§ ~~305(a)(1)(E) and 305(b)(1)~~ § 305 of the Older Americans Act, the Department for the Aging, in its discretion, has established that the boundaries for planning and service areas (PSAs) will be coterminous with the boundaries of the planning districts established by the Department of Planning and Budget, except that

1. Within the boundaries of planning district 8 the Department for the Aging has established five planning and service areas with the concurrence of the local governing bodies, and
2. The Department for the Aging has combined

planning districts 17 and 18 into one planning and service area with the concurrence of the local governing bodies.

C. These boundaries shall be maintained until such time as there is good cause, shown by clear and convincing evidence, to create a new planning and service area.

§ 2.2. Application procedures to obtain designation as a new planning and service area or as a new Area Agency on Aging.

A. Applications of units of general purpose local government to serve as designated Area Agencies on Aging within established planning and service areas or to create a new planning and service area shall be made only by formal resolution of city councils or county boards of supervisors and must be submitted in writing to the Commissioner of the Department for the Aging. Such new entities, if approved, shall become effective with the beginning of the terms of their approved Area Plan for Aging Services and the contract incorporating such plan, upon execution of the contract. Any application for new Area Agency on Aging status or new planning and service area status shall be submitted prior to July 1 of the year preceding the year in which the new status would become effective.

B. The application for new Area Agency on Aging status or for new planning and service area status shall contain the proposed Area Plan for Aging Services and shall show the following:

1. All the city councils and county boards of supervisors in the planning and service area which would be affected have consented to the proposed change.
2. The proposed change will not result in creation of an Area Agency on Aging or new planning and service area which would receive less than 1.0% of the formula fund allocation for Virginia, according to the allocation method used by the Department for the Aging for the year in which the application is submitted.
3. Provision of services in a proposed new planning and service area or by a proposed new Area on Aging shall be shown, by clear and convincing evidence, to assure more efficient and effective preparation and implementation of the Area Plan for Aging Services for the older Virginians within the planning and service area.

C. Upon receipt of an application which meets the foregoing requirements, the Commissioner of the Department for the Aging shall provide a public hearing in the planning and service area. At least a 30 day notice shall be provided through publication in a newspaper or newspapers of general circulation in the cities and counties to be affected by the proposed new entity and its

Proposed Regulations

submitted Area Plan for Aging Services. Notification shall be mailed to the local governments and all other interested Area Agencies on Aging. The public hearing shall be held at a time and location as convenient as possible to the citizens of the cities and counties affected by the proposed change. The commissioner or a hearing officer designated by the commissioner will preside at the hearing. At the public hearing, interested persons may speak for themselves or be represented by counsel, and written presentations may be submitted. Following the public hearing and for at least 30 days thereafter, the commissioner will receive any additional written information which citizens or organizations wish to submit.

D. In addition to the public hearing and reception of comments by the Virginia Department for the Aging and the commissioner, as provided above, the commissioner shall consult with the Department of Planning and Budget, pursuant to § 2.1-391 C of the Code of Virginia, whenever a new planning and service area is proposed, and the approval of that department shall be persuasive.

E. Within 120 days of the public hearing, the commissioner shall issue written findings of fact, the consideration of the Department of Planning and Budget, and a particularized conclusion and decision. In the case of a new planning and service area, its effective date shall be determined and stated. The designation of Area Agencies on Aging becomes effective upon approval of their Area Plans for Aging Services and execution of the contract.

F. Any applicant for designation as a new entity whose application is denied may request an administrative hearing, pursuant to the Virginia Administrative Process Act, § 9-6.14:11 of the Code of Virginia, within 15 days of receipt of the written denial. If, after hearing, the applicant's request is still denied, the applicant may appeal the decision in writing within 30 days after receipt of the decision to the Commissioner of the U.S. Administration on Aging, pursuant to 45 C.F.R. § 1321.31.

§ 2.3. Termination of the designation of an Area Agency on Aging.

A. The contractual designation of an incumbent Area Agency on Aging will be renewed annually contingent upon approval of and performance on the Area Plan for Aging Services.

B. The contractual designation of an Area Agency on Aging will be withdrawn by the Commissioner of the Virginia Department for the Aging for any of the following:

1. Upon a written request by the Area Agency on Aging that the commissioner terminate its contractual designation.
2. Upon a request by formal resolution of all the city councils and county boards of supervisors within the

planning and service area of the Area Agency on Aging that the commissioner designate and contract with another Area Agency on Aging, whose area plan is approved.

3. Upon a finding by the Virginia Department for the Aging, after reasonable notice and opportunity for a hearing, pursuant to 45 C.F.R. § 1321.35, that:

- a. An area plan or plan amendment is not approved.
- b. An area agency does not meet the requirements of the Older Americans Act, as amended; the federal regulations to implement the Older Americans Act, as amended; the Code of Virginia; or the policies and regulations of the Department for the Aging.
- c. There is substantial failure in the provisions or administration of an approved area plan to comply with one or more of the provisions of the Older Americans Act, as amended; the federal regulations to implement the Older Americans Act as amended; the Code of Virginia; regulations of the Department for the Aging; licensing requirements of the Commonwealth of Virginia; and local ordinances.
- d. The activities of the Area Agency on Aging are inconsistent with the statutory mission in the Older Americans Act and its implementing regulations.

4. Upon reasonable application of the terms and conditions stated in the contract. Contractual obligations, failure of fulfillment of which shall lead to termination of the contract, include, but are not limited to, the following:

- a. Failure to correct deficiencies disclosed in an audit report from an audit conducted as required by the Virginia Department for the Aging, pursuant to ~~§ 4-10 §§ 4.31 and 4.32 of these regulations this regulation~~ ;
- b. Failure to report promptly to the Virginia Department for the Aging and to the appropriate law-enforcement officials any theft, embezzlement, or unlawful use of funds received from the Department for the Aging;
- c. Failure to submit reports which meet the requirements (including due dates) established by the Virginia Department for the Aging;
- d. Deliberate falsification of information in such reports.

5. Upon a decision pursuant to § 2.2 of ~~these regulations this regulation~~ creating a new Area Agency on Aging or new planning and service area, to the extent that such a decision makes performance on the

existing contract impossible.

C. Upon notice by the Virginia Department for the Aging of its intent to terminate, the Area Agency on Aging, within 15 days from receipt of the notice, may request and shall be provided an informal fact-finding conference pursuant to the Virginia Administrative Process Act, § 9-6.14:11 of the Code of Virginia. If, from such a conference, a finding is made that one of the conditions set forth in § 2.3 B 4 of ~~these regulations~~ *this regulation* obtains or that a term or condition in the contract so permits, the contractual designation shall be withdrawn. In the alternative, if no request for such hearing has been made by 15 days from receipt of the notice, the contractual designation shall terminate 30 days after receipt of the notice.

D. If the Commissioner of the Department for the Aging has reason to believe that one or more of the reasons for termination constitutes an emergency endangering the health, safety, or welfare of citizens or seriously threatens the financial or programmatic continuation of services required by the Area Plan for Aging Services, the commissioner may order the immediate suspension of the designation of the Area Agency on Aging, in advance of a hearing, and shall state in writing the reasons therefor.

E. When the contractual designation of an Area Agency on Aging is withdrawn, the commissioner, to assure continued conduct of functions and provision of services to the extent feasible, shall contractually designate a new Area Agency on Aging in a timely manner, or, for a period of up to 180 days from the withdrawal, the Virginia Department for the Aging itself may perform the responsibilities of the Area Agency on Aging or may assign the responsibilities of the area agency to another agency in the planning and service area. With the consent of the Commissioner of the U.S. Administration on Aging, the Commissioner of the Virginia Department for the Aging may extend the 180-day period.

§ 2.4. Designation of a new Area Agency on Aging.

A. When there is no designated Area Agency on Aging for a planning and service area, or when there has been a decision to create a new planning and service area, the commissioner shall solicit applications for a new Area Agency on Aging as soon as possible. Such applications shall be solicited by advertisement in the newspapers of general circulation serving the planning and service area and by notification mailed to the local governing bodies of cities and counties within the planning and service area. At least 30 days from the date of advertisement shall be provided for applicants to submit their applications to the commissioner. The application shall include the applicant's proposed Area Plan for Aging Services. The commissioner shall give the right of first refusal to a unit of general purpose local government, if such unit can meet the requirements of the Older Americans Act, as amended, and if the boundaries of such a unit and the boundaries of the planning and service area are reasonably contiguous.

Applicants may be:

1. A city or county within the affected planning and service area;
2. All the cities and counties within the affected planning and service area, applying as a joint exercise of powers, pursuant to § 15.1-21 of the Code of Virginia;
3. A public agency or a private nonprofit corporation of Virginia, or any separate organizational unit within such agency which can and shall engage only in the planning or provision of a broad range of supportive services for older persons within the planning and service area.

B. Within 30 days after the deadline set by the commissioner for submission of applications for designation as an Area Agency on Aging, the commissioner shall advertise a public hearing to receive comments on such designation. At least 30 days notice of the hearing shall be provided through advertisement in newspapers of general circulation serving the affected planning and service area and by notification mailed to the local governing bodies and all applicants. The hearing shall be held at a time and location as convenient as possible to the citizens of the cities and counties affected by the proposed change. The commissioner or a hearing officer designated by the commissioner will preside at the public hearing. At the public hearing, interested parties may speak for themselves or be represented by counsel, and written presentations may be submitted. Upon conclusion of the hearing, the commissioner will continue to receive any additional written information which citizens or organizations may wish to provide.

C. Within 45 days after the public hearing, unless the applicants have agreed otherwise, the commissioner shall issue a written decision. The commissioner may designate a new Area Agency on Aging, subject to final approval of its Area Plan for Aging Services and execution of the contract. Such designation shall become effective upon execution of the contract or such other data as agreed upon therein; or, if the commissioner finds that the applicant or applicants applying do not offer functions, services, and an Area Plan for Aging Services which will be in the best interests of the Commonwealth or of the persons to be served, the commissioner may reject all applications and recommence the designation process. Reasons for denial shall be set forth with reasonable particularity.

PART III. AREA PLANS FOR AGING SERVICES.

§ 3.1. Preparation and submission of the area plan.

A. Any existing Area Agency on Aging or any applicant for area agency designation will prepare an Area Plan for Aging Services and submit it to the Virginia Department

Proposed Regulations

for the Aging for approval. The area plan will clearly detail the means of providing supportive and nutrition services and substantiation for the means selected. An approved area plan will be in effect for two, three, or four years, as determined by the Department for the Aging. Such plan, if approved, will become the scope of services in the contract executed between the Virginia Department for the Aging and the Area Agency on Aging as contractor.

B. The Area Agency on Aging shall submit to the Virginia Department for the Aging for prior approval all requests for, and, with reasonable documentation of and substantiation, for; necessary changes, additions, or deletions in its area plan. The area agency shall submit a written amendment to the area plan request if it intends to:

1. Change the scope of a service or if it intends to;
2. Add or delete a service;
3. Change the objectives of a service or program;
4. Change the arrangements by which a service is delivered (, e.g., direct service or contracted subcontracted service; ; the number, days of operation, or location of congregate meal service delivery sites →; the service provider;
5. Change the proposed spending for a service or program; or
6. Make any other substantive change in information about the area agency described in the area plan.

Any amendment must be When approved by the Virginia Department for the Aging and; when signed by both the Department for the Aging and the Area Agency on Aging as contractor, will, the amendment will be incorporated into the contract as part of the scope of services.

C. The area plan shall provide, through a comprehensive and coordinated system, for supportive services, in-home services (as defined in the Older Americans Act, Title III-D, § 342), disease prevention and health promotion services (as defined in the Older Americans Act, Title III-F, § 363), and nutrition services and, where appropriate, for the establishment, maintenance, and construction of multipurpose senior centers within the planning and service area covered by the plan. Such services, whether provided directly by the area agency or through a subcontract or subgrant, shall be provided according to the standards specified in the contract between the Department for the Aging and the area agency. The area agency shall ensure the standards are met by the service provider.

Subject to the requirements in § 2.3, such services may include:

1. **Checking services.** Calling or visiting older persons at their residence to check on them to make sure they are well and safe. This activity may also serve to provide psychological reassurance to an older person who is alone and in need of personal contact from other individuals.

2. **Congregate meals.** Procurement, preparation, conveyance, and provision of nutritionally balanced meals that meet one-third of the current recommended dietary allowance for older persons. The provision of meals must occur at designated nutrition sites which also provide a climate/atmosphere for socialization and opportunities to alleviate isolation and loneliness.

3. **Consolidated access services.** Identifying and locating older persons in need of services and assessing and periodically reassessing their need for services; collecting and providing information to link older persons with the opportunities, services, and resources needed to meet their particular problems and needs.

4. **Dental services.** Provision of needed dental services to limited-income persons 60 years of age and older not otherwise able to obtain the services.

5. **Emergency services.** Provision of money and other resources, including referral to other public and private agencies, for assistance to persons 60 and older who have an emergency need for help. Area agencies must have approved policies established by their governing board for administration of this service.

6. **Employment services.** Assistance to older persons seeking part-time or full-time employment within the public or private sector and advocacy on behalf of the older worker.

7. **Finance, tax, and consumer counseling.** Provision of direct guidance and assistance to older persons and their caregivers in the areas of consumer protection, personal financial matters, and tax preparation.

8. **Geriatric day care services.** Regular daytime supervision and care of frail, disabled, and institutionally at-risk older adults. Participants require a level of care which ensures their safety, and, with the provision of services ranging from socialization to rehabilitation, may experience an enhancement in their quality of life and level of functioning.

9. **Health education.** Provision of information or materials, or both, specifically designed to address a particular health-related issue. The activity may be preventive in nature and may promote self-care and independence.

10. **Health screening.** Provision of screening to

Proposed Regulations

determine current health status, including counseling, follow-up, and referral, as needed.

11. Home care/companion services. Provision of light housekeeping, companionship and other services to eligible older adults, who, because of their functional level, are unable to perform these tasks themselves.

12. Home delivered meals. Procurement, preparation, conveyance, and provision of nutritionally balanced meals that meet one-third of the current recommended dietary allowance for older persons. The meals must be delivered and received at the homes of the individuals.

13. Home health services. Provision of intermittent skilled nursing care under appropriate medical supervision to acutely or chronically ill homebound older adults. Various rehabilitative therapies and home health aides providing personal care services are included.

14. Homemaker/personal care services. Provision of nonmedically oriented services by trained personnel under professional supervision. Services may include personal care activities, nutrition-related tasks, light housekeeping, and respite for family caregivers.

15. Identification/discount program. Provision to older persons of a card which can be used as identification to cash checks and to obtain discounts for goods and services from participating merchants.

16. Legal assistance. Legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney). Includes counseling or representation by a nonlawyer, where permitted by law, to older individuals with economic or social needs. May also include preventive measures such as community education.

17. Long-term care coordinating activity. Provides for the participation of area agency staff on the local long-term care coordinating committee(s) and in the planning and implementation of a coordinated service delivery system.

18. Public information. Provision of information to older persons and the general public about the programs and services available to the elderly and their caregivers and about the talents, skills, problems, and needs of older persons.

19. Residential repair and renovation. Provision of home repairs or home maintenance to persons 60 years of age and older (includes weatherization provided with Older American Act funds).

20. Services to persons in institutions. Provision of

consultation and assistance to institutionalized older persons, their families, and facility staff in such areas as aging issues, resident rights, and activities for facility residents.

21. Socialization/recreation services. Activities to provide persons 60 years of age and older with opportunities to participate in constructive social experiences and leisure time activities. This may also include senior center activities as well as activities suitable for and within the time constraints of the nutrition sites.

22. Substate long-term care ombudsman program. Serves as a point of entry for long-term care recipients, their families and friends, and the concerned public, whereby complaints made by, or on behalf of, older persons in long-term care facilities or receiving long-term care services in the community can be received, investigated, and resolved. The program also provides counseling and support to long-term care recipients and others to assist them in resolving problems and concerns through the use of the complaint handling procedure of the long-term care facility or community based long-term care service provider. In addition, the program is a resource for information regarding institutional and community based long-term care services. Through its contacts with long-term care recipients and others concerned with long-term care, the Long-Term Care Ombudsman Program identifies problems and concerns of older persons receiving long-term care and their families and friends and recommends changes in the long-term care system which will benefit these individuals as a group.

23. Transportation services. Group transportation of older persons to congregate meals, socialization and recreation activities, shopping, and other services available in the community; individual transportation to needed services that promote continued independent living.

24. Volunteer programs. Development of opportunities for the community to do volunteer work in aging programs and services; recruiting and supervising volunteers; and developing opportunities for older persons to do volunteer work in the community.

D. An Area Agency on Aging may provide a service, other than those listed above for which standards have been established, under the following conditions:

1. The service is consistent with the goals and objectives of the Older Americans Act.
2. The area agency makes a written request to, and receives written approval from, the Virginia Department for the Aging.
3. Such The written request includes shall include at

Proposed Regulations

least the following:

a. A description of the service to be provided;

b. *Justification why the service activities cannot be included within any existing services;*

b. c. A budget for the service for the duration of the current Area Plan for Aging Services, including sources and amounts of all funding for the service; and

e. d. A summary of the process which the area agency used to obtain public comment on the service to be provided.

4. If the area agency plans to provide the service directly, the area agency ~~must~~ shall comply with § 3.5 of these regulations *this regulation*.

E. If a citizen, organization, or local government should believe an Area Agency on Aging or its Area Plan for Aging Services substantially fails to comply with the provisions of the Older Americans Act, the complaint shall be addressed in writing to the Commissioner of the Virginia Department for the Aging, detailing the reasons and bases for the complaint.

F. In the alternative, a complaint ~~can~~ may be initiated at the local level with the ~~substate ombudsman program, under circumstances described in §§ 5-2 D 2 and 5-2 D 3 of these regulations for reporting complaints to the Virginia Department for the Aging local ombudsman entity~~

G. If, after an investigation is conducted, the commissioner has cause to believe that there are substantial grounds for termination of the designation of the area agency which is the subject of the complaint, pursuant to § 2.3 B 3 e of these regulations of *this regulation*, the commissioner shall provide notice to the area agency of intent to withdraw its area agency designation within 30 days, stating the bases, and shall provide an opportunity for a hearing if requested within 15 days of receipt of the notice by the area agency involved. Failure to request a hearing shall result in withdrawal of the area agency designation at the end of the 30th day after receipt of the notice by the area agency.

H. The hearing, if timely requested, shall be provided consistent with the provisions of the Virginia Administrative Process Act, § 9-6.14:11 of the Code of Virginia. Within 30 days of the close of the hearing, unless the case is disposed of by consent during the hearing process, the commissioner shall render a written decision. If the commissioner finds that the Area Plan for Aging Services of the Area Agency on Aging or the administration of the area plan by the area agency does not comply with the requirements and provisions of the Older Americans Act, the commissioner shall withdraw the

designation, pursuant to 45 C.F.R. § 1321.35. If there are significant, correctable problems in the Area Plan for Aging Services or the administration thereof, the commissioner may allow the area agency to continue as such, contingent upon appropriate changes and attainment of compliance within a stated time period.

I. When the cause for termination endangers the health, safety and welfare of the population to be served or jeopardizes the financial or programmatic provision of functions and services, suspension of the area agency shall be immediate, and termination shall become final within 30 days, unless good cause is shown by clear and convincing evidence.

§ 3.2. Population to be served.

A. All Virginians age 60 years or older are eligible to receive services provided under an Area Plan for Aging Services. An Area Agency on Aging shall give preference to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals. Older Americans Act funds and state funds shall be targeted to services which can assist older persons to function independently for as long as possible. *comply with provisions of the Older Americans Act of 1965, as amended, and the regulations pursuant to it at 45 CFR Part 1321, related to giving preference in providing all services to certain older individuals and to providing congregate and home delivered nutrition services to certain individuals under age 60 and to others regardless of age.*

B. Any Virginian 60 years of age or older and his or her spouse, regardless of age, are eligible to receive congregate nutrition services:

1. The following individuals are also eligible to receive congregate nutrition services:

a. A handicapped or disabled individual who is under the age of 60 years and who resides in a housing facility occupied primarily by older individuals at which congregate nutrition services are provided.

b. An individual, regardless of age, who provides volunteer services during the meal hours.

c. A disabled individual under age 60 who resides at home with and accompanies an older individual who is otherwise eligible.

C. Any Virginian 60 years of age or older, who is homebound by reason of illness or incapacitating disability or otherwise isolated, is unable to prepare his own meal, and has no one to prepare food for him is eligible to receive home-delivered nutrition services:

1. The following individuals are also eligible to receive home-delivered nutrition services:

Proposed Regulations

a. The spouse of the older person, regardless of age or condition, may receive a home-delivered meal if receipt of the meal is in the best interest of the homebound older person. Each Area Agency on Aging shall establish criteria for determining when receipt of the meal is in the best interest of the older person.

b. A nonelderly disabled individual who resides at home with an older individual who is otherwise eligible.

§ 3.3. Priority services.

A. An Area Agency on Aging shall spend at least 15% of its Title III-B allotment for services associated with access to other services, as defined in § 1.2 of these regulations *this regulation*.

B. An Area Agency on Aging shall spend at least 5.0% of its Title III-B allotment for in-home services, as defined in § 1.2 of these regulations *this regulation*.

C. An Area Agency on Aging shall spend at least 1.0% of its Title III-B allotment for legal assistance for the elderly.

D. An Area Agency on Aging, whose spending in a priority service category exceeds the minimum proportional expenditure level specified above, shall spend in each such category of services at least the same amount of actual funds as it spent in such category for the previous fiscal year.

E. D. To the extent that the priority services and the assignment of proportional expenditure level to be allotted levels to them are prescribed by law and regulation of the federal government, this section (~~§ 3.3~~) is subsections A through C of this section are exempt from the procedural requirements of the Virginia Administrative Process Act, pursuant to § 9-6.14:4.1 of the Code of Virginia.

F. E. The Virginia Department for the Aging may waive the requirement described in §§ 3.3 subsections A through 3.3 C of these regulations *this section* for any category of services described in that section if the Area Agency on Aging demonstrates to the department that services being provided in such category in the area are sufficient to meet the need for such services in such area.

G. F. Before an Area Agency on Aging requests a waiver pursuant to § 3.3 F subsection E of these regulations *this section*, the Area Agency on Aging shall conduct a public hearing as follows:

1. The Area Agency on Aging requesting a waiver shall notify all interested persons of the public hearing.
2. The area agency shall provide interested persons with an opportunity to be heard.

3. The Area Agency on Aging requesting the waiver shall receive, for a period of 30 days, any written comments submitted by interested persons.

H. G. The Area Agency on Aging shall furnish a complete record of the public hearing and any written comments with the request for the waiver to the Virginia Department for the Aging.

§ 3.4. In-home services for frail older individuals.

A. The services to be provided under this section are those mandated by Title III-D of the Older Americans Act, as amended, and are expressly in addition to the in-home services and the expenditures for such category of services required pursuant to § 3.3 B of these regulations. *this regulation. For the purposes of this section, "in-home services" shall include those services specified in Title III-D, § 342, of the Older Americans Act of 1965, as amended. The term "frail" shall have the meaning specified in Title I, § 102, of the Older Americans Act.*

B. In order to determine the eligibility of a frail older person to receive in-home services under Title III-D of the Older Americans Act, as amended, an Area Agency on Aging shall take into account the following criteria:

1. The person is at least 60 years of age;
2. The person has an income at or below the poverty level established by the U.S. Office of Management and Budget ;
3. The person is restricted in his ability to perform at least two activities of daily living; and
4. The person lacks community support mechanisms to assist in the provision of Title III-D services.

C. Title III-D funds shall be used in addition to, and not to supplant, any funds which are, or would otherwise be, expended under any other federal, state, or local program. *As a new provision within the Older Americans Act, Title III-D has earmarked these funds to These funds shall be applied exclusively for in-home services identified in subsection A of this section and provided for eligible frail older individuals as defined identified in § 3.4 b subsections A and B of these regulations this section .*

D. An Area Agency on Aging expending funds under Title III-D shall meet the specific requirements of Title III-D, § 341(b), and also shall consult and coordinate the provision of Title III-D services with other agencies and organizations which administer or provide health, social, rehabilitative, and mental health services to older persons in the planning and service area.

E. At a minimum, the area agency shall consult with the following agencies and organizations providing services to older persons:

Proposed Regulations

1. Local long-term care coordinating committees established pursuant to § 2.1-373.7 of the Code of Virginia;
2. Local community services boards and community mental health centers;
3. Local health departments; and
4. Local departments of social services.

§ 3.5. Direct services.

A. An Area Agency on Aging shall not provide directly any supportive services, *in-home services* (as defined in the Older Americans Act, Title III-D, § 342), *disease prevention and health promotion services* (as defined in the Older Americans Act, Title III-F, § 363), or nutrition services, except where, in the judgment of the Virginia Department for the Aging, pursuant to a request for waiver as set forth in § 2.5 B of these regulations, provision of such services by the area agency is necessary to assure an adequate supply of such services; or where such services are directly related to the area agency's administrative functions; or where such services of comparable quality can be provided more economically by the area agency under conditions specified in the Older Americans Act, Title III-B, § 307(a)(10).

B. An Area Agency on Aging shall may request explicitly in writing a waiver to provide directly any supportive services, *in-home services* under Title III-D, *disease prevention and health promotion services* under Title III-F, or nutrition services. The request for a waiver must shall be in writing and shall include, at a minimum, the area agency's rationale for providing the service directly, including sufficient documentation that provision of such service by the area agency is necessary to assure an adequate supply of such service, or that such service is directly related to the area agency's administrative functions, or that such service of comparable quality can be provided more economically by the area agency.

C. Unless and until a waiver has been granted in writing by the Virginia Department for the Aging, an Area Agency on Aging shall not provide or begin to provide any supportive, *in-home, disease prevention and health promotion* or nutrition service using Older Americans Act or state funds.

§ 3.6. Area Agency on Aging monitoring providers of services under the area plan.

A. Each Area Agency on Aging shall adopt and implement formal written policies and procedures, approved by the governing board, for monitoring the provision of supportive, *in-house, disease prevention and health promotion, and nutrition services* by subcontractors, subgrantees, or itself.

1. For those services monitored by the Virginia

Department for the Aging, the area agency's monitoring, at a minimum, shall include all items covered in the department's monitoring instrument for the specified service.

2. Monitoring shall be conducted at least annually.

B. The area agency shall ensure that all subcontracts and subgrants for area plan services provide for (i) monitoring by representatives of the area agency, the department, the Administration on Aging, and any other authorized entity, and (ii) access to all subcontractor/subgrantee books, documents, papers, records, and staff directly pertinent to the subcontract/subgrant.

PART IV. ADMINISTRATION OF GRANTS AND CONTRACTS.

Article 1. Principles and Standards for Financial Management and Accounting.

§ 4.1. Basis of accounting.

A. Each area agency and all entities with which such area agency itself contracts shall report program outlays and program income on the modified accrual basis. Accordingly, expenditures are recorded when a liability is incurred (i.e., when goods and services have been received or the amount can be readily estimated); but revenue is not recorded until actually realized or recognized and collectible by the grantee/contractor or entity under subcontract in a current reporting period.

B. If the Area Agency or entity under subcontract presently maintains its accounting system on the cash basis, it must develop the necessary accrual information through analysis of pertinent documentation on hand.

C. Area Agencies on Aging shall observe the cash basis of accounting for U.S. Department of Agriculture (USDA) funding and the commodities received basis for USDA commodities. An unbilled receivable shall not be reflected for USDA receivables.

§ 4.2. § 4.1. Authority to expend federal and state funds.

A. By virtue of the Virginia Department for the Aging's approval of an Area Plan for Aging Services, issuance of a notice of approval, and execution of the contract, an Area Agency on Aging is granted authority to incur costs under its approved area plan for eligible activities, for the period covered by the area plan. This authorization to incur costs under its approved area plan is extended only for allowable and allocable costs which are also reasonable and net of all applicable credits.

B. An Area Agency on Aging receiving a contractual award pursuant to an approved area plan understands and agrees that the period of the contractual award is for one

year. Prior to the renewal of the contractual award of any additional financial support for any subsequent period, the Virginia Department for the Aging may conduct an on-site evaluation of the Area Agency on Aging to determine if the objectives of the area plan are being met and whether continued financial support is indicated.

C. An Area Agency on Aging is to refer to the federal cost principles applicable to its type of organization to ascertain when prior approval is required from the Virginia Department for the Aging. In addition, prior approval may be required by the contractual award of funded support from the Virginia Department for the Aging or required by specific program legislation or regulation, including but not limited to the following:

1. Changes in the scope or objectives of the activities assured by the area plan, as approved and incorporated into the contractual award;
2. Undertaking any activities which are disapproved or restricted as a condition of the contractual award;
3. Any pending change of institutional affiliation of the Area Agency on Aging, any reassignment to a legal successor of interest, or any nominal or legal change in agency name. The Virginia Department for the Aging may in its discretion determine whether to approve such contractual modification and continue funding the existing project(s) under the new entity. Factors to be considered include assurances to continue the project(s) as approved and the acceptance of the new entity by the carrier of any surety bonds required for the project(s);
4. Transferring to a third party, by contract or any other means, the actual performance of substantive responsibility for the management of the grant/contract. Generally, such changes may require the designation of a new Area Agency on Aging and the execution of a new contract;
5. Carrying over funds from one budget period to another;
6. Extending the budget/project period with or without additional funds;
7. Expending funds for the purchase of land or buildings;
8. Conveying, transferring, assigning, mortgaging, leasing, or otherwise encumbering property acquired under a grant/contract with the Virginia Department for the Aging;
9. Acquiring automatic data processing equipment (see § 4.4 of these regulations);
10. Incurring costs or liabilities prior to the effective date of any grant/contract award;

11. Paying fees to a consultant whenever the consulting agreement (i) constitutes a transfer of substantive management or administrative work to a third party, or (ii) results in a contract for management services that requires Virginia Department for the Aging or the federal grantor agency's prior approval, as required by program regulations or other award terms;

12. Additional funding when clearly demonstrated to be essential;

13. Reallocating costs between closely related projects supported by two or more grant sources. Approval may be granted to charge costs to the Title III grant for which the costs are originally approved, or to another Department for the Aging project, when all of the following conditions are met:

- a. The projects are programmatically related;
- b. There is no change in the scope of the individual grants involved;
- c. The reallocation of costs is not detrimental to the conduct of work approved under each individual award; and
- d. The reallocation is not used to circumvent the terms and conditions of either individual award;

14. Indemnifying third parties;

15. Transferring funds between construction and nonconstruction;

16. Traveling outside of the continental United States;

17. Contributing to a reserve fund for a self-insurance program;

18. Insuring any U.S. government-owned equipment; and

19. Meeting the costs of nonemergency patient care where other forms of medical cost reimbursement, such as but not limited to Medicaid, are available.

§ 4.3. Chart of accounts.

Provided that an Area Agency on Aging is able to comply with the nine standards for financial management systems in U.S. Office of Management and Budget (OMB) Circulars A-102 and A-110, as applicable, and the financial management standards contained in Title 45 CFR Subpart 74.61, an Area Agency on Aging shall adopt its own account structure based on its own external and internal reporting requirements.

§ 4.4. § 4.2. Elements of an acceptable financial management system.

Proposed Regulations

A. An Area Agency on Aging shall maintain records and make reports in such form and containing such information as may be required by the Virginia Department for the Aging. As Area Agency on Aging shall maintain such accounts and documents as will serve to permit expeditious determination of the status of funds and the levels of services provided under the approved area plan, including the disposition of all moneys received from the Virginia Department for the Aging, and the nature and amount of all charges claimed against such funds.

B. An Area Agency on Aging shall keep records that identify adequately the source and application of funds for grant/contract-supported activities and for activities under subcontract. At a minimum, these records shall contain information pertaining to the grant/contract, subcontracts, authorizations, obligations, unobligated balances, assets, outlays, income, and, if the recipient is a governmental entity, liabilities.

C. Special grant/contract conditions more restrictive than those prescribed in Title 45 CFR Part 74 may be imposed by the Virginia Department for the Aging on an Area Agency on Aging, as needed, when the Virginia Department for the Aging has determined that the Area Agency on Aging:

1. Is financially unstable;
2. Has a history of poor performance; or
3. Has a management system which does not meet the standards of 45 CFR ~~Part~~ *Parts 74 and 92*.

D. For the purpose of determining the adequacy of an area agency's financial management system, the Virginia Department for the Aging shall consider the following records maintained on a current basis to be minimum:

1. General journal;
2. General ledger;
3. Separate or combined cash receipts and disbursements journal or voucher register;
4. Payroll register (if the agency has more than 10 employees);
5. Fixed assets register for all owned and leased property and equipment;
6. In-kind journal/worksheets;
7. Project cost control subsidiary ledger/worksheets; ~~and~~
8. Bank statements reconciled within 30 calendar days of receipt ; ~~and~~
9. A *chart of accounts*.

E. Grantees/contractors of the Virginia Department for the Aging may substitute the equivalent kind of records for those specified above, provided the substitute records meet the function for which those records have been required.

F. An Area Agency on Aging shall have *documented* procedures for determining the reasonableness, allowability, and allocability of all contract costs.

~~§ 4.5.~~ § 4.3. Use of Title III-C funds until USDA reimbursement.

Title III-C of the Older Americans Act, as amended (42 U.S.C. 3001 et seq.), and incorporated by reference in this regulation, funds shall be given priority for reimbursement of the cost of nutrition services. Nutrition funding from USDA should be used to reimburse Title III-C at the time of receipt. Providers of nutrition services to older persons shall treat the USDA reimbursement as income upon receipt.

~~§ 4.6.~~ § 4.4. Reimbursement from other sources.

All reimbursement under ~~Titles XIX and XX~~ of the ~~Social Security Act~~ of funds which originate from the federal government for services funded jointly by the Older Americans Act shall be considered "other federal funds" for budgeting and reporting purposes.

~~§ 4.7.~~ § 4.5. Liquidation of obligations.

A. Grantees/contractors of the Virginia Department for the Aging and subcontractors of the Area Agencies on Aging shall liquidate all obligations incurred under the Older Americans Act within 90 days of the end of the grant period. The Virginia Department for the Aging shall consider written requests for waivers of this rule in the case of any multiyear subcontracts involving construction or renovation.

B. All Virginia general fund moneys shall be spent by June 30 of the year covered by the award. No unliquidated obligations shall exist beyond June 30.

~~§ 4.8.~~ § 4.6. Area Agency on Aging fiscal manual.

An Area Agency on Aging shall prepare a complete, accurate, and current set of written fiscal policies to be maintained in the form of an officially adopted manual. This manual shall cover the area agency's own fiscal policies and those applicable to its subcontractors. At a minimum, the manual shall provide for a description of each of the following accounting applications and the internal controls in place to safeguard the agency's assets: billings, receivables, cash receipts, purchasing, accounts payable, cash disbursements, payroll, inventory control, property and equipment, and general ledger. Each of the agency's fiscal activities for revenue/receipts, disbursements and financial reporting shall also be described.

Article 2. Transfer of Funds.

~~§ 4.9.~~ § 4.7. Authority to transfer funds between the titles of the Older Americans Act.

A. With the prior written approval of the Virginia Department for the Aging, an Area Agency on Aging may transfer funds between the titles of the Older Americans Act, as amended. Area agencies may request transfers of up to 15% of Title III-C(1) funds to Title III-C(2) projects.

B. With the prior written approval of the department, area agencies may transfer up to 10% of Title III-C funds to Title III-B projects for fiscal year 1993 and up to 5.0% for fiscal years 1994 and 1995.

Article 3. Personnel Policies.

~~§ 4.10.~~ § 4.8. Employment of key Area Agency on Aging personnel.

The governing board of the Area Agency on Aging shall have the authority to hire and otherwise supervise the activities of the Director of the Area Agency on Aging. All recruitment efforts shall be guided by a description of duties and a list of recruitment criteria developed in advance by the Area Agency on Aging.

~~§ 4.11.~~ § 4.9. Taking security deposits and making payments on behalf of clients.

Unless an Area Agency on Aging has an approved program for such purposes and any such security deposits and payments are explicitly covered under the agency's fidelity bond coverage, all officers, employees, volunteers and agents shall be prohibited from taking security deposits for clients or from making payments on behalf of participants of programs funded under the Older Americans Act. Where such programs are provided for and explicitly covered under the agency's fidelity bond coverage, adequate safeguards shall be formally in place and the operation of the program periodically monitored by the Area Agency on Aging.

~~§ 4.12.~~ § 4.10. Support for labor distribution.

A. Charges to awards for salaries and wages shall be based on documented payrolls approved by a responsible supervisory official of the Area Agency on Aging. The distribution of time worked must be supported by personnel activity reports.

B. Labor distribution reports should be prepared and controlled according to the following minimum standards:

1. Employees, including employees under subcontract, are responsible for preparing their own timecards/timesheets.

2. Employees shall be provided clear instructions as to the work to be performed and the grant/contract category or program to be charged.

3. Periodic internal reviews of the timekeeping system shall be performed to assure compliance with system controls.

4. Overtime hours shall be approved in advance and justification provided.

5. A list of supervisors authorized to approve timecards/timesheets shall be maintained along with signature cards kept on file by the timekeeping office.

C. In situations where the use of labor distribution reports may be impractical or essentially the same results could be obtained through sampling techniques, an Area Agency on Aging may request in writing from the Virginia Department for the Aging approval of a substitute system which involves staff-maintained labor distribution reports for a prototypical period.

~~§ 4.13.~~ § 4.11. Up-to-date job descriptions for all Title III funded positions.

For each paid and volunteer position funded by Title III of the Older Americans Act the Virginia Department for the Aging, an Area Agency on Aging shall maintain:

1. A current and complete job description which shall cover the scope of each position-holder's duties and responsibilities and which shall be updated as often as required, and

2. A current description of the minimum entry-level standards of performance for each job.

Article 4. Property Control.

~~§ 4.14.~~ § 4.12. Inventorying acquired equipment.

An Area Agency on Aging shall conduct or have conducted on an annual basis an inventory of all equipment with an acquisition cost exceeding \$500 acquired with funds granted by the Virginia Department for the Aging, including equipment acquired by their subcontractors and subgrantees.

~~§ 4.15.~~ Control of USDA commodities.

To prevent unauthorized diversion, all elderly nutrition projects obtaining commodities from USDA shall conduct an inventory at least once a year of all USDA commodities and shall maintain a perpetual inventory system over such commodities.

~~§ 4.16.~~ Purchase of automatic data processing (ADP) equipment.

Proposed Regulations

A. An Area Agency on Aging shall take special precautions in the purchase of ADP equipment and software. The purchase, lease, or retention of ADP equipment shall require prior approval from the Virginia Department for the Aging on an individual or blanket purchase basis.

B. In the acquisition of computer equipment, an Area Agency on Aging shall ensure the following:

1. A full requirements analysis has been conducted;
2. Its computer utilization needs are projected over at least a three-year period;
3. The intended software system meets federal and state reporting requirements;
4. There is adequate post-sale vendor support; and
5. Competitive purchasing procedures are adhered to.

C. The cost of ADP services does not require federal or state prior approval.

§ 4-17. § 4.13. Area Agency on Aging property control policies.

An Area Agency on Aging shall have written policies and procedures, approved by the governing board, for managing equipment purchased in whole or part with federal, state, or matching funds, to include: (i) accurate and complete property records, (ii) regular physical inventory of equipment, (iii) adequate maintenance procedures, and (iv) disposal of property and equipment.

Article 5.

Procurement Practices and Contracting.

§ 4-18. § 4.14. Summary of procurement procedures.

A. Each Area Agency on Aging not subject by statute to the Virginia Public Procurement Act (§§ 11-35 through 11-80 of the Code of Virginia) shall have written procurement policies and procedures which are consistent with the provisions of the Virginia Public Procurement Act approved by the governing board.

B. The Area Agency on Aging shall incorporate in any contract, grant, or purchase agreement of over \$10,000 \$15,000 the conditions specified in the Virginia Public Procurement Act or those conditions provided in the written policies and procedures required in subsection A of this section.

§ 4-19. § 4.15. Contract awards to Area Agencies on Aging.

The Virginia Department for the Aging is authorized under § 2.1-372 of the Code of Virginia to award grants or contracts, or a combination of both, to a designated Area Agency on Aging to administer programs under an

approved area plan. The Virginia Department for the Aging has determined that the contracts mechanism is the appropriate vehicle for making awards to Area Agencies on Aging in furtherance of its purpose under its approved area plan. Even though the procuring mechanism is called a contract, for purposes of interpreting federal regulations, the provisions for grants and grantees shall apply to an Area Agency on Aging rather than the provisions for contracts.

§ 4-20. § 4.16. Unauthorized awards to debarred, suspended, or high-risk subcontractors.

A. An Area Agency on Aging shall make awards only to responsible subcontractors possessing the ability to perform successfully under the terms and conditions of the proposed contract. Consideration shall be given to such matters as the integrity of the subcontractor, compliance with public policy, record of past performance, and financial and technical resources.

B. An Area Agency on Aging shall not execute any subcontract at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

C. An Area Agency on Aging shall require its proposed subcontractors at any tier to certify whether they have been excluded from participation in federal assistance programs.

D. If an Area Agency on Aging believes that there are compelling reasons for executing a subcontract with a debarred, suspended, or voluntarily excluded provider in a particular area, the area agency may apply to the Virginia Department for the Aging for a waiver from this requirement. Such waivers shall be granted only in unusual circumstances upon the written determination, by an authorized Virginia Department for the Aging official, that there are compelling reasons justifying the participation.

§ 4-21. § 4.17. Authority for multiyear awards.

A. An Area Agency on Aging may enter into a multiyear subcontract provided such contract has a completion date, a binding schedule of costs for each year of the entire contract period, a satisfactory performance clause, and a funds-availability clause. An optional-year contract is the preferred contracting mechanism for multiyear awards.

B. The maximum period of time for a multiyear subcontract from the effective date of the contract to close out shall be three years. Any subcontracts for periods longer than three years shall be reprocedured and renegotiated at the end of the three-year period through normal competitive processes.

§ 4-22. § 4.18. Preference for small business and minority firm awards of grants and contracts.

Proposed Regulations

It is the Virginia Department for the Aging's policy that a fair share of subcontracts be awarded to small and minority business firms and nonprofit organizations. Accordingly, affirmative steps shall be taken to assure that small and minority businesses are utilized, when possible, as sources of supplies, equipment, construction, and services.

~~§ 4.23.~~ § 4.19. Contract and competitive grants appeals process.

An Area Agency on Aging shall establish an appeals and hearing process to resolve disputes and claims involving contracts and competitively awarded grants, if such are authorized. At a minimum, this process shall describe:

1. Applicable procurement rules to be used in the appeals process;
2. Designation of an impartial officer to hear and pass on the dispute or claim;
3. Form and timing of the claim to be filed;
4. Right of the claimant to counsel;
5. Hearing procedures;
6. Manner and timing of the hearing officer's opinion;
7. Right to appeal to the Virginia Department for the Aging; and
8. Retention and disposal of the hearing's record.

Article 6. General Program Income.

~~§ 4.24.~~ § 4.20. Acceptable methods for general program income.

An Area Agency on Aging is authorized to observe the additional-costs alternative. Under this alternative, all general program income earned by the Area Agency on Aging shall be retained by the area agency and added to funds committed to the project by the Virginia Department for the Aging and shall be used to further eligible program objectives.

~~§ 4.25.~~ § 4.21. Treatment of interest earned on advances.

Interest earned on federal funds passed through the Virginia Department for the Aging is to be considered general program income. Such funds may be used as cash match in the supportive services and nutrition programs, to expand any approved program, or to further any activity or benefit to the elderly as approved by the governing board of the Area Agency on Aging. Such funds may not be used to meet the costs associated with the preparation and administration of the area plan.

~~§ 4.26.~~ § 4.22. Allowable investment Deposit and custody policies.

The investment deposit of available federal or state funds shall be directed by two principles: (i) all funds received must be protected from unreasonable loss or diminished value, and (ii) investments deposits must be selected to earn a reasonable return on funds not expected to be disbursed immediately. In furtherance of such principles, the following investment mechanisms are authorized:

1. Any interest bearing checking account that is fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

2. NOW accounts.

Such checking accounts or NOW accounts must be insured for any excess of funds on deposit over the amount insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

~~§ 4.27.~~ § 4.23. Timing of spending general program income.

In general, there is no time restriction as to when general program income under the additional-costs alternative must be spent. To avoid any excessive accumulation of funds and the abuse of this alternative, the Virginia Department for the Aging has determined that general program income earned under the additional-costs alternative shall be spent in the year in which as it is earned. If it is earned near the end of the agency's fiscal year and the agency is unable to spend this income by then, it shall at least be spent before the expenditure of any federal or state funds in the beginning of the next fiscal year. Unspent cash program income at the end of a fiscal year shall not exceed 10% of the cash program income available for that year.

~~§ 4.28.~~ § 4.24. Special internal control safeguards over participant contributions.

Because of the cash nature of participant contributions, agencies shall exert special safeguards over such funds. At a minimum, agencies receiving participant contributions shall employ one or more of the following precautions: (i) have two persons count all cash contributions; (ii) deposit the amount intact; (iii) make deposits on a daily basis; (iv) maintain all cash contributions in a secure place until deposit; (v) regularly justify cash counts against deposit receipts received from the bank; (vi) for home-delivered meals, maintain lock boxes in the vans and encourage mailed contributions; (vii) provide a clearly stated policy concerning provision of client receipts, in duplicate, for each cash transaction; and (viii) rotate staff periodically, if staffing permits, all precautions that are necessary to ensure control against loss.

Proposed Regulations

~~§ 4.24.~~ § 4.25. Area Agency on Aging written policies on program income.

An Area Agency on Aging shall formally adopt written policies and procedures, approved by the governing board, regarding collection, disposition, and accounting for (i) program income, including participant contributions, and (ii) interest and other investment income earned on advances of federal and state funds.

Article 7.

Bank Balances and Check-Handling Procedures Cash Management .

~~§ 4.30.~~ § 4.26. Rules on cash management by Area Agencies on Aging.

A. An Area Agency on Aging shall institute procedures to minimize their cash balances of funding provided by the Virginia Department for the Aging. Accordingly, Area Agencies on Aging shall tailor projections of cash requirements from the Virginia Department for the Aging to coincide closely with the actual disbursement of such funds.

B. An Area Agency on Aging shall adopt procedures for minimizing the time elapsed between the receipt of federal and state funds and their disbursement.

~~§ 4.31.~~ § 4.27. Fidelity bond requirements.

For all personnel handling cash or preparing or signing checks, the Area Agency on Aging shall obtain minimum insurance coverage of three-months' cashflow, including checks received, in blanket fidelity bond coverage.

Article 8.

Monitoring of Subcontractors of Area Agencies on Aging.

~~§ 4.32.~~ Area Agency on Aging written policies on subcontractor monitoring.

Each Area Agency on Aging shall adopt formal written policies and procedures, approved by the governing board, for monitoring their subcontractors and subgrantees under the approved area plan and for follow-up on any findings.

Article 9 8 .

Carry-Over Balance Policies.

~~§ 4.33.~~ § 4.28. Carry-over funds.

Carry-over funds may represent obligated but unspent funds. For such funds to be available for expenditure in a subsequent fiscal year, the Virginia Department for the Aging must reauthorize in the subsequent area plan such funds for an area agency to obligate and expend. An Area Agency on Aging shall request authority for such reauthorization of funds. In general, carry-over balances from Titles III-B, III-C(1), III-C(2), and III-D should shall

not exceed 10% of the federal/state obligation by title for the new fiscal year, computed separately. This 10% carry-over policy does not apply to Virginia general fund moneys; all of general fund moneys must be spent by June 30 of the fiscal year in which they have been awarded. Approval for the use of such federal carry-over funds shall be granted by the Virginia Department for the Aging only for specific uses and for a specified period of time.

Article 10 9 .

Audits.

~~§ 4.34.~~ § 4.29. Area Agencies on Aging retain own independent public accountants.

A. Each Area Agency on Aging shall retain its own public accountant, who is sufficiently independent of those who authorize the expenditure of federal funds, to produce unbiased opinions, conclusions, or judgments. The auditor shall meet the independence criteria established in Chapter 3, Part 3, of the U.S. Government Accounting Office publication, Standards for Audit of Governmental Organizations, Programs, Activities and Functions.

B. In arranging for audit services, an Area Agency on Aging shall follow procurement standards for retaining professional services. Small audit firms and audit firms owned and controlled by minority individuals shall have the maximum practical opportunity to participate in audit contracts awarded.

C. In soliciting and retaining auditors to conduct the annual audit, an Area Agency on Aging must make specific reference in their request for proposals and any resulting subcontract that the auditor shall be required to conform to the requirements in the Single Audit Act of 1984 ; P.L. 98-502 (31 U.S.C. 7501 through 7507) , and OMB Circular A-128, or Attachment F, OMB Circular A-110 OMB Circular A-133 , as applicable. This would relate to the scope of the audit, standardized audit report, reportable events, monitoring by the Virginia Department for the Aging and quality assurance review, access to audit work papers, plan for corrective action, and resolution of audit findings.

D. The audit solicitation and any resulting contract for audit services shall make specific reference that "if it is determined that the contractor's audit work was unacceptable as determined by the Virginia Department for the Aging or a federal supervisory agency, either before or after a reasonable time after a draft or final report was issued, because it did not meet the Virginia Department for the Aging's standards, the AICPA Standards, or those promulgated by the Comptroller General of the United States, the contractor may, at the area agency's written request, be required to reaudit at its own expense and resubmit a revised audit report which is acceptable."

~~§ 4.35.~~ § 4.30. Frequency of audits and due date for

Proposed Regulations

submission of audit reports.

A. An audit of Area Agencies on Aging and their grantees and cost-reimbursement contractors shall be conducted at least annually.

B. The audit report shall be submitted to the Virginia Department for the Aging by December 15. If, for reasons within the control of the Area Agency on Aging, this report cannot be submitted by this time, funding of the agency may be suspended by the Virginia Department for the Aging. An Area Agency on Aging shall make a written request for ~~an~~ no greater than a 30-day extension of time for justifiable reasons to the Virginia Department for the Aging before December 15. Such request shall be submitted with sufficient time for Virginia Department for the Aging review and approval.

§ 4.36. § 4.31. Scope of audit report.

A. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

B. The audit shall cover the entire operations of the agency or, at the option of that agency, it may cover departments, agencies or establishments that received, expended or otherwise administered federal financial assistance during the year. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

C. The auditor shall determine whether:

1. The financial statements and the accompanying schedules of the agency, department, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles.

2. The organization has internal accounting and other control systems to provide reasonable assurance that it is managing federal financial assistance programs in compliance with applicable laws and regulations.

3. The organization has complied with laws and regulations that may have a material effect on its financial statements and on each major federal assistance program.

D. The independent public accountant shall render an opinion on three accompanying schedules: Status of Funds, Costs by Program Activity, and Status of Inventories.

§ 4.37. § 4.32. Area Agency on Aging audit resolution.

Each Area Agency on Aging shall have a systematic method to assure the timely and appropriate resolution of audit findings and recommendations.

Article 11 10 .

Close-Out Procedures.

§ 4.38. § 4.33. Close-out.

A. In the event of termination, all property, documents, data, studies, and reports purchased or prepared by the Area Agency on Aging or its subgrantees or subcontractors under its approved area plan shall be disposed of as directed by the Virginia Department for the Aging. The terminated Area Agency on Aging shall be entitled to compensation for any unreimbursed expenses reasonably and necessarily incurred up to the point of receipt of the termination notice in satisfactory performance under its approved area plan. In spite of the above, the Area Agency on Aging shall not be relieved of liability to the Virginia Department for the Aging for damages sustained by the Virginia Department for the Aging by virtue of any breach of the approved contract and area plan. The Virginia Department for the Aging may withhold for purpose of a set-off any reimbursement of funds to the Area Agency on Aging until such time as the exact amount of damages due the Virginia Department for the Aging from the Area Agency on Aging is agreed upon or otherwise determined.

B. In the event of rescission, revocation, or termination, all documents and other materials related to the performance under the Area Plan for Aging Services shall become the property of the Virginia Department for the Aging.

§ 4.39. § 4.34. Bankruptcy.

Approval of the area plan shall be withdrawn and any contractual relations terminated for cause if, upon 60 days notice, either party is adjudicated bankrupt, is subject to the appointment of a receiver and fails to have such receiver removed within 60 days, has any of its property attached and fails to remove such attachment within 60 days, or becomes insolvent or for a period of 60 days is unable to pay its debts as the same become due.

§ 4.40. § 4.35. Follow-up actions to grant or subgrantee close-out or termination.

As a consequence of close-out or termination, the following steps shall be taken:

1. Upon request, the Virginia Department for the Aging shall promptly pay the contractor for all allowable reimbursable costs not covered by previous payments.

2. The contractor shall immediately refund or otherwise dispose of any unobligated balance of cash advanced to the contractor, in accordance with instructions from the Virginia Department for the Aging.

3. The contractor shall submit, within 90 days of the date of close-out or termination, all financial,

Proposed Regulations

performance, and other reports required by the terms of the agreement. The Virginia Department for the Aging may extend the due date in response to a written or oral request from the contractor. The department shall respond in writing to the request.

4. The Virginia Department for the Aging shall make a settlement for any upward or downward adjustment of the federal share of costs, to the extent called for by the terms of the agreement.

Article 12 11 . Record Management.

§ 4.41: § 4.36. Area agency record retention requirements.

Fiscal records shall be maintained for five years from the date the Virginia Department for the Aging submits to the U.S. Department of Health and Human Services its final expenditures report for the funding period. This period may be extended, if an audit, litigation, or other action involving the records is started before the end of the five-year period and the records must be retained until all issues arising from the action are resolved or until the end of the five-year period, whichever is later.

§ 4.42: § 4.37. Contractors and subcontractors.

In the case of grantees/contractors and subcontractors, there shall be a five-year record retention requirement from the date when final payment is made and all other pending matters are closed. Grantees/contractors and subcontractors of the Virginia Department for the Aging shall include a provision in contracts for the five-year record retention period and for access to the contractor's records by authorized representatives of the Commonwealth of Virginia and the United States Government.

§ 4.43: § 4.38. Other record retention requirements.

An Area Agency on Aging and its subcontractors/subgrantees shall also comply with the record retention requirements of the State Corporation Commission and the Internal Revenue Service for corporations and individuals.

§ 4.44: § 4.39. Area agency policy and procedures.

An Area Agency on Aging shall have written policies and procedures approved by the governing board regarding the retention and access to all financial and programmatic records, supporting documents, statistical records, and other records.

§ 4.45: § 4.40. Access to records.

In addition to the head of the federal sponsoring agency and the Comptroller General of the United States, or any of their duly authorized representatives, the Commissioner of the Virginia Department for the Aging and the

Comptroller of the Commonwealth of Virginia, or their duly authorized representatives, shall have the right of access to any pertinent books, documents, papers, and records of the Area Agency on Aging and its subcontractors to make audits, examinations, excerpts, and transcripts.

PART V. LONG-TERM CARE OMBUDSMAN PROGRAM.

§ 5.1: Office of the State Long-Term Care Ombudsman.

A. When handling complaints, the Office of the State Long-Term Care Ombudsman shall take the following steps:

1. Staff of the Office of the State Long-Term Care Ombudsman shall provide complaint counseling to an appropriate person alleging a reasonably specified complaint to assist such person in resolving the complaint himself.

2. If said person alleging a reasonably specified complaint is unable or unwilling to resolve the complaint himself, staff of the Office of the State Long-Term Care Ombudsman will attempt to obtain reasonably specific information from the complainant, in accordance with which staff of the Office of the State Long-Term Care Ombudsman shall assess the complaint to determine the most appropriate means of investigating and resolving the complaint.

a. Staff of the Office of the State Long-Term Care Ombudsman shall investigate reasonably specified complaints reported to the office which allege action, inaction, or decisions of providers of long-term care services (or their representatives) which may adversely affect the rights, health, welfare, or safety of the person complaining or the recipient of services.

b. Staff of the Office of the State Long-Term Care Ombudsman shall initiate the investigation of a complaint within two working days of the date on which the complaint is received.

c. Staff of the Office of the State Long-Term Care Ombudsman shall refer complaints concerning long-term care regulatory issues and allegations of abuse, neglect, and exploitation to the appropriate agency for investigation, pursuant to §§ 2.1-373.1 through 2.1-373.3 of the Code of Virginia.

d. When the complaint alleges abuse, neglect, or exploitation, staff of the Office of the State Long-Term Care Ombudsman shall make a referral by telephone immediately to the appropriate Adult Protective Services staff in the appropriate local Department of Social Services. "Appropriate local Department of Social Services" means the Department of Social Services (i) in the locality where the alleging person resides, or (ii) in the

Proposed Regulations

locality where the abuse, neglect, or exploitation is alleged to have occurred, or (iii) in the locality where the complaint is discovered.

e. Staff of the Office of the State Long-Term Care Ombudsman shall forward a reasonably specified complaint to the appropriate regulatory agency or to the Adult Protective Services unit within three working days of the date on which the complaint is received.

f. Staff of the Office of the State Long-Term Care Ombudsman shall complete their investigation of a complaint handled by the office within 45 working days of the date on which the complaint is received.

g. No action shall be taken or threatened by any long-term care provider or facility for the purpose of punishing or retaliating against any resident, ombudsman, employee, or other interested person for presenting a complaint under this regulation or for providing assistance to the complaining party.

D. Staff of the Office of the State Long-Term Care Ombudsman shall comply with the provisions of confidentiality required by § 2.1-372.2 and Chapter 26 (§ 2.2-377 et seq.) of Title 2.1 of the Code of Virginia concerning confidentiality with respect to the identity of the alleging person or the service recipient and the records maintained by the office.

C. Staff of the Office of the State Long-Term Care Ombudsman shall provide identifying information to the Adult Protective Services unit of the Department of Social Services concerning the affected person or service recipient alleged to be a victim of abuse, neglect, or exploitation.

D. Staff of the Office of the State Long-Term Care Ombudsman may provide identifying information to appropriate agencies involved in the investigation of complaints, at the discretion of the State Ombudsman.

E. All substate ombudsman representatives, when acting for or on behalf of the Office of the State Long-Term Care Ombudsman pursuant to a duty executed contract between the substate ombudsman program in the Area Agency on Aging and the Office of the State Long-Term Care Ombudsman in the Virginia Department for the Aging, shall be bound by the provisions of §§ 5.1 A through 5.1 C of these regulations.

F. Section 2.1-372.1 of the Code of Virginia provides to the staff of the Office of the State Long-Term Care Ombudsman the right of access to long-term care facilities and to the residents and records of such facilities.

G. All substate ombudsman representatives, when acting for or on behalf of the Office of the State Long-Term Care Ombudsman pursuant to a duty executed contract between the substate ombudsman program in the Area Agency on

Aging and the Office of the State Long-Term Care Ombudsman in the Virginia Department for the Aging, shall be provided the same rights of access as those set forth in § 5.1 F of these regulations.

§ 5.2. Substate long-term care ombudsman programs.

A. An Area Agency on Aging shall obtain approval of its Area Plan for Aging Services from, and shall execute a contract with, the Virginia Department for the Aging before it operates a substate ombudsman program. Such contract shall be in the form of an agreement incorporating as the scope of services the approved Area Plan for Aging Services or approved amendments thereto, signed by both parties. The contract shall provide assurances by the Area Agency that adequate legal representation should any be necessary, shall be supplied on behalf of representatives of the substate ombudsman program acting in the scope of their services.

B. The actions of the representatives of the substate ombudsman program when acting on behalf of the Office of the State Long-Term Care Ombudsman pursuant to the duty executed contract shall be governed with regard to confidentiality requirements and rights of access, by the provisions of §§ 5.1 B through 5.1 D of these regulations.

C. The authority of the substate ombudsman program shall be limited to the geographic area specified in the approved Area Plan for Aging Services or in an approved area plan amendment, recognized as the scope of services of the contract.

D. The following steps will be observed under the circumstances described:

1. Staff of the substate ombudsman program shall comply with the complaint handling and reporting procedures established by the Office of the State Long-Term Care Ombudsman, in accordance with § 5.1 A of these regulations and instructions provided by the Office of the State Long-Term Care Ombudsman.

2. Staff of the substate ombudsman program shall forward all complaints to the Office of the State Long-Term Care Ombudsman within three working days of the date on which the complaint is received by the substate ombudsman program.

3. Staff of the substate ombudsman program shall forward all complaints regarding long-term care services provided directly by or under contract by the Area Agency on Aging to the Office of the State Long-Term Care Ombudsman within one working day of the date on which the complaint is received by the substate ombudsman program.

4. Staff of the substate ombudsman program shall forward all complaints regarding the Office of the State Long-Term Care Ombudsman to the Virginia Department for the Aging within one working day of

Proposed Regulations

the date on which the complaint is received by the substate ombudsman program.

E. If the substate ombudsman program utilizes volunteers to visit long-term care facilities, such utilization must be indicated in the Area Plan for Aging Services and specified in the contract. Such volunteers shall be screened and trained by the substate ombudsman program prior to their assuming their responsibilities.

F. Each volunteer in a substate ombudsman program shall sign an agreement with the program which specifies the responsibilities of the volunteer, in accordance with the Area Plan for Aging Services, as approved, and the executed contract.

G. The substate ombudsman program shall assure that each volunteer has fulfilled the minimum training requirements established by the Office of the State Long-Term Care Ombudsman Program and has signed the agreement required by § 5-2 F of these regulations.

H. The substate ombudsman program shall submit accurate and timely reports in accordance with instructions provided by the Office of the State Long-Term Care Ombudsman.

§ 5-3. Conflict of interest.

Staff and representatives of the Office of the State Long-Term Care Ombudsman and staff and representatives of the substate ombudsman program shall have no conflicts of interest with regard to long-term care facilities, long-term care providers, and long-term care issues, pursuant to Chapter 40-1 (§ 2-1-630.1 et seq.) of Title 2-1 of the Code of Virginia.

BOARD OF MEDICINE

REGISTRAR'S NOTICE: The following regulation is exempt from the Administrative Process Act pursuant to subdivision A 18 of § 9-6.14:4.1 of the Code of Virginia, which excludes from this Act the Board of Medicine when specifying therapeutic pharmaceutical agents for the treatment of certain conditions of the human eye and its adnexa by certified optometrists pursuant to § 54.1-2957.2.

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 and 54.1-2957.2 of the Code of Virginia.

Public Hearing Date: N/A

Summary:

The amendment adds Neomycin as a therapeutic agent to the Optometric Formulary as established in § 54.1-2957.2 of the Code of Virginia. The addition to the formulary is consistent with appropriate standards of care concerning antibiotic and antibacterial intervention for the eye and its adnexa.

The amendment responds to a continuing review of the regulations for the certification of optometrists to prescribe and treat certain diseases or abnormal conditions of the eye with therapeutic pharmaceutical agents.

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 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;
 - c. 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 one part.

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:

1. Hordeolum, conjunctivitis, blepharitis, chalazion, and dry eye.
2. Superficial foreign bodies of the eye and its adnexa which can be treated by noninvasive modalities.
3. 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

Proposed Regulations

3. Bacitracin
4. Polymyxin B/Bacitracin
5. Chlorotetracycline
6. Sodium Sulfacetamide - 10%
7. Sodium Sulfacetamide - 30%
8. Sulfisoxazole - 4.0%
9. Sulfacetamide - 15% / Phenylephrine - 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 - 0.5%
16. Hydroxypropyl Cellulose Ophthalmic Insert
17. Polytrim Ophthalmic Solution
18. Neomycin

§ 4.4. Standards of practice.

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 list in § 4.3 does not preclude optometrists treating emergency cases of anaphylactic shock with intra-muscular epinephrine, such as obtained from a beesting kit.

D. 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.

of certification.

§ 5.2. 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 one-part comprehensive examination in accordance with § 3.1 of these regulations.

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. An applicant

may, upon written request 21 days prior to the scheduled examination and payment of a \$100 fee, 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.

DEPARTMENT OF THE TREASURY (THE TREASURY BOARD)

Title of Regulation: VR 640-02. Virginia Security for Public Deposits Act Regulations.

Statutory Authority: § 2.1-364 of the Code of Virginia.

Public Hearing Date: July 15, 1993 - 9 a.m.

Written comments may be submitted through August 13, 1993.

(See Calendar of Events section for additional information)

Summary:

The following regulations are necessary to provide adequate protection for public funds on deposit in financial institutions under the Virginia Security for Public Deposits Act (§ 2.1-359 et seq. of the Code of Virginia).

The amendment to § 1 clarifies the duties and responsibilities of the State Treasurer and financial institutions under the Act. The amendment to § 5 requires the computation of average daily balances to include both deposits and collateral. The amendment to § 8 requires a depository's Board of Directors to approve the "Public Deposit Security Agreement" executed among itself, the Treasury Board, and its eligible escrow agent, with such approval being reflected in the minutes of the Board of Directors and maintained as an official record. The amendment to § 9 requires escrow agents, at the time of a collateral substitution, to calculate adjustments to market value of collateral identified as difficult-to-value or subject to rapid decline in value, as determined by the State Treasurer. The amendment to § 10 defines current public deposits. The amendment to § 11 requires qualified public depositories to report the average daily market value of collateral in the monthly written report to the State Treasurer and to have an independent certified public accountant certify annually that public deposits reported to the State

Treasurer under the Act are accurately reported. The new § 13 reinforces the authority of the Treasury Board to enact policy guidelines should qualified public depositories fail to comply with the provisions of the Act or regulations. The new § 14 establishes criteria for the selection of escrow agents by public depositories and outlines the responsibilities of the State Treasurer and public depositories to ensure adherence to these criteria. Other changes to the regulations and the accompanying forms are either clarifying or cosmetic in nature or necessary to conform with statutory changes.

VR 640-02. Security for Public Deposits Act Regulations.

§ 1. General.

The definitions provided by § 2.1-360 of the Code of Virginia, shall be used throughout these regulations unless the context requires otherwise.

The Treasury Board has designated the State Treasurer to be the chief administrative officer with respect to the provisions of the Virginia Security for Public Deposits Act (§ 2.1-359 et seq. of the Code of Virginia) and the State Treasurer reserves the right to designate a representative to act on his behalf.

The primary responsibility for determining that the Act is being complied with rests upon the financial institutions that accept and hold public deposits. If a financial institution officer is unable to ascertain whether a particular deposit is a "public deposit" for purposes of the Act, he should obtain the essential details and communicate with the public depositor, the financial institution's counsel, or the State Treasurer's office. If the deposit is a "public deposit" the pertinent inquiry is whether the deposit either must be secured pursuant to the Code of Virginia, or whether the public depositor elects to require security for the deposit.

§ 2. Effective date.

These regulations, as amended, shall be effective on and after ~~October 31, 1991~~ November 1, 1993.

§ 3. Required collateral for banks.

The required collateral of a national or state chartered bank to secure public deposits shall be determined according to the following applicable criteria and shall consist of securities qualifying as eligible collateral pursuant to these regulations which have a value for collateralization purposes not less than:

1. Fifty percent. Fifty percent of the actual public deposits held at the close of business on the last banking day of the immediately preceding month, or 50% of the average balance of all public deposits for the immediately preceding month, whichever is greater;

Proposed Regulations

2. Seventy-five percent. In the event a bank's average daily public deposits for the immediately preceding month exceed one-fifth of its average daily total deposits, the required collateral will be 75% of the actual public deposits held at the close of business on the last banking day of the immediately preceding month, or 75% of the average balance of all public deposits for the immediately preceding month, whichever is greater;

3. One hundred percent. In the event a bank's average daily public deposits for the immediately preceding month exceed one-fifth of its average daily total deposits and the bank has not been actively engaged in the commercial banking business for at least three years, or in the event that a bank's average daily public deposits for the immediately preceding month exceed one-third of its average daily total deposits, or in the event that a bank has not been actively engaged in the commercial banking business for at least one year, the required collateral will be 100% of the actual public deposits held at the close of business on the last banking day of the immediately preceding month, or 100% of the average balance of all public deposits for the immediately preceding month, whichever is greater.

In the event a bank has violated the pledging statutes and regulations or for other reasons deemed sufficient, such as the financial condition of the bank, the Treasury Board may increase the bank's ratio of required collateral to 100% of its actual public deposits.

§ 4. Required collateral for savings institutions.

The required collateral of a savings institution to secure public deposits shall consist of securities qualifying as eligible collateral pursuant to these regulations which have a value, for collateralization purposes, not less than a sum equal to 100% of the average daily balance of public deposits held by such savings institution for the immediately preceding month, but shall not be less than 100% of the public deposits held by such savings institution at the close of business on the last banking day of the immediately preceding month.

In the event that a savings institution has violated the pledging statutes and regulations, or for other reasons deemed sufficient, such as the financial condition of the savings institution, the Treasury Board may increase such savings institution's ratio of required collateral above 100% of its actual public deposits.

§ 5. Average daily balance computation.

The average daily balance for any month of all public deposits held during the month shall be derived by dividing the sum of the daily balances of such deposits for the month of any item being computed by the number of calendar days in the month.

In computing the amount of public deposits and the average balance of public deposits to be collateralized during any month, there shall be excluded the amount of each deposit which is insured by federal deposit insurance.

§ 6. Eligible collateral.

A. Securities eligible for collateral are limited to:

1. Obligations of the Commonwealth. Bonds, notes and other evidences of indebtedness of the State of Virginia, and securities unconditionally guaranteed as to the payment of principal and interest by the State of Virginia.

2. Obligations of the United States. Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof.

3. Obligations of Virginia counties, cities, etc. Bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body of the State of Virginia upon which there is no default provided that such bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body are either direct legal obligations of, or unconditionally guaranteed as to the payment of principal and interest by, the county, city, town, district, authority or other public body in question and revenue bonds issued by agencies or authorities of the State of Virginia or its political subdivisions upon which there is no default and which are rated BBB or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

4. Obligations of International Bank for Reconstruction and Development, African Development Bank, and Asian Development Bank. Bonds and other obligations issued, guaranteed, or assumed by the International Bank for Reconstruction and Development by the African Development Bank, or by the Asian Development Bank.

5. Obligations partially insured or guaranteed by any U.S. Government Agency.

6. Obligations (including revenue bonds) of states, other than Virginia, and their municipalities or political subdivisions rated A or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

7. Corporate Notes rated AA by both Standard & Poor's and Moody's Moody's Investors Services, Inc. and Standard & Poor's Corporation with a maximum maturity of 10 years.

8. Any additional securities approved by the Treasury.

Proposed Regulations

Board pursuant to § 2.1364(d).

B. No security which is in default as to principal or interest shall be acceptable as collateral.

C. No qualified public depository shall utilize securities issued by itself, its holding company, or any affiliate for purposes of collateralizing its public deposits.

D. Securities excluded by action of the Treasury Board pursuant to § 2.1-364(d) shall not be acceptable.

§ 7. Valuation of collateral.

Each qualified public depository shall value its securities for reporting purposes at their current market value as of the close of business on the last banking day of the immediately preceding month. In the event the market value of the collateral declines by 10% or more between said date and the date of submitting the monthly report to the Treasury Board, the market value on the submission date shall be used to determine any additional collateral requirements.

The State Treasurer, upon written notice to any or all qualified public depositories and eligible escrow agents, may require as deemed necessary for reporting purposes that certain securities that are difficult-to-value or subject to rapid decline in value or otherwise represent a risk of decrease in value be valued at a rate less than 100% of their market value.

§ 8. Deposit of collateral.

No qualified public depository shall accept or retain any public deposit which is required to be secured unless it has previously executed a "Public Deposit Security Agreement," and approved by the depository's Board of Directors or loan committee, with such approval reflected in the minutes of said board or committee. The depository shall maintain the security agreement as an official record continuously from the time of its execution. The depository must also have deposited eligible collateral, as defined in these regulations, equal to its required collateral, determined as herein provided, with an eligible escrow agent or agents approved by the Treasury Board State Treasurer. Each depository is responsible for providing a written notification and executing new agreements upon its merger, acquisition, or name change.

Whether or not a qualified public depository has eligible collateral deposited as heretofore provided at the time it receives a public deposit, if such deposit would result in an increase in the qualified public depository's required collateral computed as of the day on which the deposit is received, such qualified public depository shall immediately deposit sufficient securities to increase its collateral to an amount equal to that determined pursuant to § 3 or § 4 of these regulations, whichever is applicable, utilizing the qualified public depository's actual public deposits held at the close of business on the day such

deposit is received in lieu of those held at the close of business on the last banking day in the immediately preceding month. Written notice of deposit of collateral shall be submitted to the State Treasurer.

At the time of the deposit of registered securities, the qualified public depository owning the securities shall attach appropriate bond power forms as required to allow the State Treasurer to transfer ownership of such registered securities for the purpose of satisfying the qualified public depository's liabilities under the Act in the event the collateral needs to be liquidated.

§ 9. Substitution of eligible collateral.

A substitution of eligible collateral may be made by the qualified public depository at any time provided that the market value of the securities collateral substituted is equal to or greater than the market value of the securities collateral withdrawn.

At the time of making a collateral substitution, the qualified public depository shall prepare a request for the substitution upon a form approved by the State Treasurer and deliver the original to the escrow agent and a copy to the State Treasurer. The escrow agent shall not allow a collateral substitution unless the market value of the securities collateral to be substituted is equal to or greater than the market value of the securities collateral to be withdrawn. The escrow agent shall calculate adjustments to the market value of collateral that the State Treasurer has identified as difficult-to-value or subject to rapid decline in value at the time of substitution to determine if the market value is equal to or greater than the value of the collateral to be withdrawn in accordance with § 7 of this regulation. In the event the market value of the substituted collateral is not equal to or greater than the value of the securities collateral to be withdrawn as determined in accordance with § 7 of this regulation, the qualified public depository, to substitute the collateral, shall receive obtain written approval of the State Treasurer.

§ 10. Withdrawal of collateral.

A qualified public depository shall not be permitted to withdraw collateral previously pledged without the prior written approval of the State Treasurer. The State Treasurer may grant such approval only if the qualified public depository certifies in writing that such withdrawal will not reduce the market value of its pledged collateral below its required collateral as defined by these regulations, and this certification is substantiated by a statement of reporting the qualified public depository's current public deposits which indicates that after withdrawal such deposits will continue to be secured to the full extent required by the law and regulations. Current public deposits are defined as the amount of public deposits held at the time of withdrawal of collateral. If a qualified public depository cannot determine the amount of current public deposits during

Proposed Regulations

the month when collateral is to be withdrawn, the depository shall request an exception to this provision from the State Treasurer stating why the depository cannot comply and how it intends to determine the current public deposit balance during the month under this provision. The request for exception must be in writing and formally approved by the State Treasurer. The escrow agent shall not permit the qualified public depository to withdraw collateral without the written approval of the State Treasurer.

§ 11. Reports by qualified public depositories.

Within 10 business days after the end of every month, each qualified public depository shall submit to the State Treasurer a written report, under oath, signed by an authorized officer of the financial institution indicating the total amount of public deposits held by it at the close of business on the last business day in the immediately preceding month; the average daily balance for such month of all secured public deposits held by it during the immediately preceding month; the average balance of all bank deposits for the immediately preceding month; the total required collateral; and the total par value and, the total market value of collateral, and the average daily market value of collateral for the immediately preceding month. Included with this report shall be a detailed schedule of pledged collateral at its to include, but not limited to, the description, coupon rate, cusip number, maturity date, debt rating by Moody's Investors Services, Inc. or Standard & Poor's Corporation, par value amount, book or principal value amount and current market value amount, determined pursuant to § 7 of these regulations.

At the request of any public depositor for which it holds deposits, within 10 business days after the end of any month, the qualified public depository shall submit a statement indicating the total secured public deposits in each account to the credit of such depositor on the last business day in the immediately preceding month and the total amount of all secured public deposits held by it upon such date.

Within the first 10 business days of each calendar quarter, every qualified public depository shall submit to each public depositor for whom it holds secured public deposits a report indicating the account number, type of account, amount of federal deposit insurance applied, total amount on deposit and total amount on deposit to be secured by its pledged collateral as of the close of business on the last banking day of the calendar quarter being reported. At the same time a copy of this report shall be attached to the "Public Depository Monthly Report" submitted to the State Treasurer.

By July 1, every qualified public depository shall submit to the State Treasurer an annual certification from an independent certified public accountant, attesting to the depository's compliance with this section's reporting requirements and attesting to the accuracy of reports submitted thereunder for their previous fiscal year.

§ 12. Reports by State Treasurer.

The State Treasurer shall report to the auditors of any public depositor, upon their written request, the status of any qualified public depository's collateral account and its compliance with the reporting requirements of the Act. The State Treasurer shall notify any public depositor that maintains accounts with any bank or savings institution of any irregularities, including, but not limited to, the late filing of the required monthly reports or of deficiencies in the qualified public depository's eligible collateral at any time. The Treasury Board shall be notified of the sending of any reports of irregularities required herein no later than at its next regularly scheduled meeting.

§ 13. Compliance requirements.

Pursuant to the power granted under § 2.1-364 of the Code of Virginia, the Treasury Board may establish criteria for determining the continued eligibility of public depositories to accept public deposits. By formal request, any depository may receive a copy of the approved policy enacted by the Treasury Board. The State Treasurer shall notify any public depositor that maintains accounts with any bank or savings institution of any policy irregularity.

§ 14. Criteria for the selection of escrow agents.

Pursuant to the powers granted to the Treasury Board by § 2.1-362 of the Code of Virginia, the State Treasurer has determined that the selection of an escrow agent or agents is consistent with administration of the Act and the State Treasurer shall define all escrow agent criteria under an agreement labeled "Public Deposit Security Agreement" to be signed and sealed by an authorized officer for the escrow agent, depository and State Treasurer. A depository may have no more than one escrow agreement in effect at any given time period. Each depository and escrow agent is responsible for providing a written notification and executing new agreements upon their merger, acquisition, or name change. Every qualified public depository shall comply with this section of the regulations within 60 days of their effective date.

An escrow agent selected by a qualified public depository for the purpose of holding collateral pledged to the Treasury Board under the Act must meet the following requirements:

1. The escrow agent must sign a "Public Deposit Security Agreement," which shall also be signed by the depository and the State Treasurer, acting on behalf of the Treasury Board.
2. The escrow agent shall hold in a separate account for the Treasury Board eligible collateral pledged under the provisions of the Act and, if acting as escrow for more than one public depository, the collateral must be accounted for in a manner that will allow separate reporting by account and public depository. The escrow shall hold the eligible

collateral in a section of the institution which is separate from daily activities performed by that institution such as its trust department and be held accountable for the regulatory requirements of such department.

3. The escrow agent shall be an independent entity not affiliated in any way with the public depository in the performance of its duties on behalf of the Treasury Board.

4. The escrow agent must be able to hold all eligible collateral and ascertain whether pledged collateral is eligible in accordance with § 6 of these regulations. The escrow agent shall distribute all interest, dividends, or other income for the pledged securities to the depository and shall be payable thereto provided the escrow agent has not received written notice from the Treasury Board that the depository is in a condition of "default or insolvency" as defined in the Act, in which event the escrow agent shall hold such income subject to the order of the Treasury Board.

5. The escrow agent shall allow the Treasury Board to examine pledged securities held as collateral at any time, upon 24-hour notice, during the regular business hours of the escrow agent without cost to the Treasury Board. Upon notification of the "default or insolvency" of a depository by the Treasury Board, the escrow agent shall deliver the pledged securities to the Treasury Board for disposition as provided in the Act, and take a receipt thereof, which shall relieve the escrow agent from any further liability to the depository.

6. The escrow agent shall price securities held as collateral at a market price no older than one business day from the date of a substitution of collateral and from the last business day of the month for monthly reporting purposes.

7. The escrow agent shall adhere to the reporting requirements as detailed in the "Public Deposit Security Agreement."

8. The escrow agent shall allow substitutions in accordance with § 9 of these regulations. The escrow agent must ensure that market values used to price substituted securities will be no older than the previous day's prices.

9. The escrow agent shall ensure that withdrawals of collateral will be in accordance with § 10 of these regulations.

The State Treasurer, acting on behalf of the Treasury Board, will determine that an escrow agent can meet the criteria established under this section prior to executing the "Public Deposit Security Agreement." The State Treasurer may request information from an escrow agent

to substantiate its ability to meet the aforementioned criteria.

In the event an escrow agent violates the requirements of the "Public Deposit Security Agreement," the State Treasurer shall notify the escrow agent and applicable public depositories of the violation and require the escrow agent to comply with all terms of the agreement. The escrow agent must provide the State Treasurer and public depositories a written statement outlining how and when the violations will be remedied within 30 days of the notification. This statement must be acceptable to the State Treasurer, who will monitor adherence to it. If the escrow agent fails to provide a statement or adhere to it or violates the agreement three times within a two-year period, the State Treasurer will classify such an escrow agent as "disqualified" as an escrow agent under the provisions of the Act and notify all parties. Qualified public depositories shall have 90 days to select a new escrow agent after such a disqualification.

In the event an escrow agent is classified as "disqualified," the term of suspension shall be for one year from the date of disqualification. After "disqualification," an escrow agent must write to the Treasury Board for approval to be reinstated as an eligible escrow agent.

~~§ 13.~~ § 15. Suspension of authority to receive public deposits.

For failure to comply with the Act or the regulations, the Treasury Board may remove from a qualified public depository the authority to receive further public deposits. Such depository remains fully subject to the provisions of the Act and the regulations as to any public deposits that it continues to hold during a period of removal of its authority to receive further public deposits, including without limitation the collateralization and reporting requirements, and continues to be deemed a qualified public depository for purposes of §§ 2.1-363 and 2.1-363.1 of the Act.

~~§ 14.~~ § 16. Exception reports by public depositories.

Upon receipt of the quarterly public depository report, as stated in § 11, public depositories shall notify the State Treasurer of any unresolved discrepancy between the information provided and the public depositories' records.

Proposed Regulations

Form No. 1001 Treas.
11/93

DRAFT

PUBLIC DEPOSIT SECURITY AGREEMENT

To Secure Public Deposits Pursuant to the
Virginia Security for Public Deposits Act

This Agreement made as of the _____ day of _____, 19____, by and among the
TREASURY BOARD OF _____ of _____, Virginia (hereinafter "Board"), and
Agent"), is for the provision of banking and escrow services, as further defined
below.

WHEREAS, the Virginia Security for Public Deposits Act, §§ 2.1-359 through
2.1-370 of the Code of Virginia (the "Act"), as amended, requires "qualified
public depositories" to deposit "eligible collateral" equal to the "required
collateral," all as defined in the Act, with an escrow agent approved by the
Board; and

WHEREAS, the regulations promulgated by the Board pursuant to the Act (the
"Regulations"), require all qualified public depositories and escrow agents to
execute this Agreement and to perform their obligations hereunder and have taken
the pledge and deposit of eligible collateral;

NOW, THEREFORE, in consideration of the premises and mutual promises herein
contained, the parties have agreed and do hereby enter into this Agreement
according to the provisions set out herein:

1. The Board represents to the Depository and the Escrow Agent that (a) the
Board consists of the State Treasurer, State Controller, and the State Comptroller
and (b) the Board is duly authorized to enter into this agreement.

2. The Depository and the Escrow Agent represent to the Board that (a) they
agree to comply with all provisions thereof; (b) they are duly authorized to
execute this Agreement and to perform their obligations hereunder and have taken
all necessary action to authorize such execution and performance; (c) the persons
signing this Agreement on their behalf are duly authorized to do so; and (d) the
execution and performance of this Agreement shall not constitute a breach of
any contract, agreement or other agreement by which they are
bound or by which any of their assets are affected.

3. The Depository represents and warrants to the Board that (a) the
Depository is and will be at all times during this agreement a "qualified public
depository" as defined in the Act; (b) at no time will the Depository allow the
market value of its collateral pledged hereunder to be less than its "required
collateral" as defined by the Act; (c) all securities deposited with the Escrow
Agent hereunder are, and will be, eligible for securing public deposits pursuant
to §§ 2.1-359 through 2.1-370 of the Code of Virginia; (d) all eligible collateral pledged to the Board
will be held in accordance with the provisions of the Act; (e) the Board of
directors or trustees shall approve this Agreement. Reflect its approval in
the minutes of the board or committee, and will supply the Board with a certified
copy of the resolution and a certified copy of the minutes of the meeting showing
the directors' acceptance of the terms and conditions of this Agreement within
60 days of the date of this Agreement; and (f) the Depository will maintain this
Agreement and any transaction under this Agreement as an official record within
the meaning of § 1823 (e) of Title 12 of the United States Code, as amended,
continuously from the time of its execution.

4. The Depository, in return for the privilege of holding public deposits and
in accordance with the Act, and intending to be legally bound, hereby grants to

the Board, as a secured party, a security interest pursuant to the Uniform
Commercial Code (§§ 8.1-101 through 8.1-108 of the Code of Virginia, as amended)
to all "eligible collateral" deposited with the Escrow Agent and pledged as
collateral for the public deposits held by the Depository pursuant to the Act and
the Regulations. The Depository will execute a security agreement with § 9 of the
Regulations. The Depository will execute a security agreement with § 9 of the
Regulations by transferring the collateral securities to the Escrow Agent in
accordance with one of the methods prescribed by § 8.3-313(1)(a) through (j) of
the Code of Virginia.

5. The Escrow Agent acknowledges the receipt of pledged securities and will
aggrandise such pledged securities from other securities, if any, held by it for
the account of the Depository.

6. The Escrow Agent will have no responsibility for ascertaining whether the
Depository's pledged "eligible collateral" is equal to its "required collateral."

7. The Escrow Agent will mail monthly reports to the Board and the Depository
no later than the eighth day following the end of the preceding month. The
Escrow Agent will include the following information in the monthly report: the
Depository's full name, address and account number; acknowledgment that the
Depository has pledged to the Board; date each security was pledged; information
concerning each security including full description, cusip number, coupon rate,
maturity date, debt rating, bond indenture number, the book value of the
securities, and (if applicable) original par value of the securities; and the
par value, book value, and market value of each security priced no earlier than one business
day prior to the last business day of the month; and the total of the original
par value, book value, and market value of all securities held as collateral.
The Escrow Agent will confirm in writing to the Board and the Depository all
deposits, substitutions and withdrawals at the time of their acceptance and will
provide the same information as is required on its monthly reports.

8. Each Depository and Escrow Agent will provide written notification to the
Board upon any merger, acquisition, change of control, or change of name
Agreement to reflect its changed status within a reasonable time following the
change.

9. The Depository and the Escrow Agent will each have such reasonable
contracts of insurance covering the eligible collateral which it holds or will
hold for the Board as are customarily made with respect to property of a similar
nature held by financial institutions.

10. Neither the Depository nor the Escrow Agent will assign this Agreement or
enter into sub-contracts for any work described herein without obtaining the
prior written approval of the Board.

11. This writing constitutes the entire Agreement among the parties,
supersedes any existing agreement among the parties hereto relative to the
matters contained herein, and may be modified only by written amendment executed
by all parties hereto.

12. This Agreement will be governed by the laws of the Commonwealth of
Virginia.

13. When any written notice, request, demand or report is required or may be
given hereunder, it will be deemed sufficient if the party giving such notice,
request, demand, or other advice delivers it to the party to whom such notice,
mail, postage prepaid, or by other superior mailing or by hand delivery by U.S. Air
mail, requests, demands or reports delivered by mail or by hand will be deemed
to have been given when received by any party hereto at the following addresses:

Depository: Such office or mailing address as stated on the Notification of

NOTIFICATION OF ADDRESS
(DEPOSITORY)

Office address: _____

Mailing address: _____

Address Form attached hereto.

Escrow Agent: Such office or mailing address as stated on the Notification of Address Form attached hereto.

Board: Office address: Department of the Treasury
Monroe Building, 3rd Floor
Richmond, Virginia 23219
ATTN: Treasury Board

Mailing address: Department of the Treasury
P. O. Box 1879
Richmond, Virginia 23215-1879
ATTN: Treasury Board

or to such other address of which any party hereto has notified the other parties hereto in writing.

14. This Agreement shall be executed in triplicate by the parties hereto, each of which shall retain one original hereof.

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement under seal as of the date first above written.

TREASURY BOARD OF THE COMMONWEALTH OF VIRGINIA

BY: _____ Date _____
 Authorized Officer

Name: _____
 Title: _____

QUALIFIED PUBLIC DEPOSITORY

(Name of Financial Institution)

BY: _____ Date _____
 Authorized Officer

Name: _____
 Title: _____

ESCROW AGENT

(Name of Institution)

BY: _____ Date _____
 Authorized Officer

Name: _____
 Title: _____

Proposed Regulations

Form No. 100 (Rev. 3/71)

COMMONWEALTH OF VIRGINIA TREASURY BOARD

NOTICE OF ELECTION TO REQUIRE SECURITY FOR PUBLIC DEPOSITS

19

Name of Bank _____
Street or P.O. Box _____
City _____ State _____ Zip _____

Notice is hereby given that effective _____, 19____, I, _____
(Name of Officer)

_____ of _____
(Title of Officer) (Location)

elect to require security pursuant to the Virginia Security for Public Deposits Act, Sec. 2, J-359, et seq., Code of Virginia (1950), as amended, for all public funds held in my name in the accounts as listed below and/or on the reverse side hereof. This election will remain in effect until rescinded by me or my successor(s) in office.

Name _____ Number _____
Name _____ Number _____
Name _____ Number _____

I acknowledge receipt of the foregoing notice and will comply therewith as of _____
pursuant to the Virginia Security for Public Deposits Act. (Date)

Attest: _____ Signature _____
Title: _____ Bank _____

I acknowledge receipt of the foregoing notice:
By: _____ TREASURY BOARD OF VIRGINIA
By: _____

White-Local Treasurer
Cannery-Bank Depository
Blue-Treasury Board
Green-Treasury Board - Local Treasurer

NOTIFICATION OF ADDRESS (ESCHROW AGENT)

Office address: _____

Mailing address: _____

RECEIVED
 COUNTY CLERK
 1993 JUN 14 10:27

EXHIBIT 3
 PUBLIC DEPOSITORY MONTHLY REPORT

TO: The Treasury Board, Commonwealth of Virginia
 P.O. Box 1879
 Richmond, Virginia 23215-1879

FROM: _____

SCHEDULE "A"
 DETAILED SCHEDULE OF PLEDGED COLLATERAL AT ITS CURRENT MARKET VALUE, DETERMINED IN ACCORDANCE WITH THE RULES OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, AS OF THE CLOSE OF BUSINESS ON THE LAST BANKING DAY IN THE MONTH PREVIOUS TO THE DATE OF MAILING THE MONTHLY REPORT TO THE TREASURY BOARD SHALL BE CONSIDERED AND USED FOR REPORTING PURPOSES, AS OF _____ (date)

Attach list, or describe, giving the following information:

Original Par Value	Amortized Par Value	Description	Coupon	Maturity	Current Market Value
--------------------	---------------------	-------------	--------	----------	----------------------

1) Total All Public Deposits on _____ (Month Ending)
 Demand: \$ _____
 Time/Savings: \$ _____
 TOTAL: \$ _____
 Less FDIC: \$ _____
 NET: \$ _____

2) Average Daily Balance All Public Accounts for:
 Month Ending _____ Demand: \$ _____
 Time/Savings: \$ _____
 FDIC NET: \$ _____

3) Average Daily Total Deposits (Includes all deposits of Financial Institution) \$ _____

4) Percentage of Item 2 to Item 3 above: % \$ _____

5) Required Collateral: _____ % of the larger (1) or (2) above: \$ _____

6) Pledged Collateral month ending _____
 From Schedule A: Par Value \$ _____
 Current Market Value \$ _____

I hereby certify that the foregoing information and attachments are true and correct to the best of my knowledge and belief, and that at no time during the month has the financial institution's pledged collateral been less than its required collateral.

FINANCIAL INSTITUTION: _____

Signature: _____ Title: _____
 State of Virginia, _____ of _____

The foregoing officer acknowledged under oath before me, a Notary Public in and for the State and Territory of Virginia, that the statements and amounts herein are correct and true to the best of his/her knowledge and belief, this _____ day of _____

My Commission expires: _____ (Notary Public)

Proposed Regulations

EXHIBIT 5

(DEPOSITORY LETTERHEAD)

WITHDRAWAL OF COLLATERAL

The Treasury Board
Commonwealth of Virginia
P. O. Box 1879
Richmond, Virginia 22215-1879
Gentlemen:
Enclosed are the original and two copies of our letter to _____ requesting a withdrawal of collateral.
The following data is submitted for your information:

Total All Public Deposits on _____ (\$ _____) (date) _____

Plledged Collateral: _____ (\$ _____) (date) _____

Current Market Value on _____ (\$ _____) (date) _____

Current Market Value on Collateral remaining after withdrawal (Including 20% adjustment when appropriate) _____ (\$ _____) (date) _____

Please indicate your approval by signing the original and sending it to the escrow agent of custodian, and retain one copy for your records.

Sincerely,
(Depository Institution)

EXHIBIT 4

(DEPOSITORY LETTERHEAD)

The Treasury Board
Commonwealth of Virginia
P. O. Box 1879
Richmond, Virginia 22215-1879
Gentlemen:
Listed _____ Depositors for whom _____ (Depository Institution) held security _____ of the close of business for month ending _____ (date) _____

NAME OF PUBLIC DEPOSITOR	TYPE OF ACCOUNT AND NUMBER	TOTAL AMT INSURED	FDIC INSURED	NET BALANCE
Customer A	DEMAND DDA 4500001 DDA 9000001	\$ 2,000 200,000	\$ 100,000	\$ 102,000
Customer A	TIME/SAVINGS CDD 3000001	200,000	100,000	100,000
Customer B	DEMAND DDA 5000001 DDA 6000002	5,000 400,000	100,000	305,000
Customer B	TIME/SAVINGS CDD 7000001 CDD 7000002	17,000 100,000	100,000	117,000

GRAND TOTAL (Line 1 of Public Depository Monthly Report) \$ 524,000

EXHIBIT 6

(DEPOSITORY LETTERHEAD)

DEPOSIT OF COLLATERAL

TO: (Escrow Agent or Custodian)

We have a Public Utility (Safeguarding) Agreement with you entitled (name) as escrow agent or custodian for the Treasury Board of the Commonwealth of Virginia to secure public deposits with (depository). Please accept the following securities for this account to be held as set forth in the agreement:

Original Par Value	Description	Coupon	Maturity Date	Current Market Value (\$ 80% if appropriate)

When this transaction has been completed, please send your usual advice to the Treasurer of Virginia, P. O. Box 1879, Richmond, Virginia 23215-1879.

Sincerely,

(Depository Institution)

cc: Treasury Board
Commonwealth of Virginia
P. O. Box 1879
Richmond, Virginia 23215-1879

EXHIBIT 5 (Continued)

(DEPOSITORY LETTERHEAD)

WITHDRAWAL OF COLLATERAL

TO: (Escrow Agent or Custodian)

You hold in the account entitled (escrow agent), an escrow agent or custodian for the Treasury Board of the Commonwealth of Virginia to secure public deposits with (depository), the following securities:

Original Par Value	Description	Coupon	Maturity Date	Current Market Value (\$ 80% if appropriate)

Please release these securities from the above account and deliver to:

When this transaction has been completed, please send your usual advice to the Treasurer of Virginia, P. O. Box 1879, Richmond, Virginia 23215-1879.

Sincerely,

(Depository Institution)

Approved: Treasury Board
Commonwealth of Virginia

By: _____

Date: _____

Proposed Regulations

FORM 7

(DEPOSITORY LETTERHEAD)

REQUEST FOR SUBSTITUTION OF COLLATERAL

TO: (Escrow Agent or Custodian)

You hold in the account entitled _____ (name of escrow agent or custodian) as escrow agent or custodian for the Treasury Board of the Commonwealth of Virginia to secure public deposits with _____, the following securities:

Original Par Value	Amortized Par Value	Description	Coupon	Cusip#	Maturity Date	Current Market Value
						(80% if appropriate)

Please release these securities from the above account and deliver to: _____

Accept in substitution the following securities to be held in the same manner as the securities being released:

Original Par Value	Amortized Par Value	Description	Coupon	Cusip#	Maturity Date	Current Market Value
						(80% if appropriate)

When this transaction has been completed, please send your usual advice to the Treasurer of Virginia, P. O. Box 1879, Richmond, Virginia 23215-1879.

Sincerely,

(Depository Institution)

cc: Treasury Board
Commonwealth of Virginia
P. O. Box 1879
Richmond, Virginia 23215-1879

VIRGINIA WORKERS' COMPENSATION COMMISSION

REGISTRAR'S NOTICE: The Virginia Workers' Compensation Commission is exempt from the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, it is required to publish proposed and final regulations in accordance with § 9-6.14:22 of the Code of Virginia.

Title of Regulation: VR 405-01-06. Procedures for Processing Workers' Compensation Claims.

Statutory Authority: § 65.2-210 of the Code of Virginia.

Public Hearing Date: July 15, 1993 - 10 a.m.
(See Calendar of Events section
for additional information)

VR 405-01-06. Procedures for Processing Workers' Compensation Claims.

PART I. GENERAL PROVISIONS.

§ 1.1. Purpose.

These regulations are issued to provide procedures to identify and resolve disputed issues promptly through informal dispute resolution or hearing.

§ 1.2. Definitions.

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

"Act" means the Virginia Workers' Compensation Act.

"Commission" means the Virginia Workers' Compensation Commission.

"Employer" includes the employer's insurance carrier unless the context otherwise requires.

PART II. PREHEARING PROCEDURES.

§ 2.1. Employee's original claim for benefits; change in condition; employer applications.

A. An employee's original claim for benefits shall be filed under applicable statutes of limitation.

1. An original claim for benefits shall be in writing, signed by the employee and shall set forth the following:

- a. Employee's name and address;
- b. Employer's name and address;

c. Date of accident or date of communication of occupational disease;

d. Nature of injury or occupational disease;

e. Benefits sought: temporary total, temporary partial, permanent total, permanent partial or medical benefits;

f. Periods of disability, if appropriate.

2. An original claim will not be docketed until medical evidence to support the claim is filed.

B. Procedures for an employee's claim on the ground of change in condition or other relief are as follows:

1. A change in condition claim shall be in writing and shall state the change in condition relied upon. A copy of the claim shall be sent to the employer.

2. Additional compensation may not be awarded more than 90 days before the filing of the claim with the commission. Requests for cost of living supplements are not subject to this limitation.

3. A claim for change in condition will not be docketed until medical evidence is filed to support the change in condition.

4. Any other claim shall specify the relief sought and will not be docketed until supporting evidence is received.

C. Procedures for an employer's application for hearing are as follows:

1. An employer's application for hearing shall be in writing and shall state the grounds and the relief sought. At the time the application is filed with the commission, a copy of the application and supporting documentation shall be sent to the employee and a copy to the employee's attorney, if represented.

2. Each change in condition application filed by an employer under § 65.2-708 of the Code of Virginia shall:

- a. Be in writing;
- b. Be under oath;
- c. State the grounds for relief; and
- d. State the date for which compensation was last paid.

3. Compensation shall be paid through the date the application was filed, unless:

- a. The application alleges the employee returned to

Proposed Regulations

work, in which case payment shall be made to the date of the return to work.

b. The application alleges a refusal of selective employment or medical attention or examination, in which case payment shall be made to the date of the refusal or 14 days before filing, whichever is later.

c. The application alleges a failure to cooperate with vocational rehabilitation, in which case payment shall be made to the date the application is filed.

d. An employer files successive applications, in which case compensation shall be paid through the date required by the first application. If the first application is rejected, payment shall be made through the date required by the second application.

e. The same application asserts multiple allegations, in which case payment is determined by the allegation that allows the earliest termination date.

4. An employer may file a change in condition application while an award is suspended.

5. No change in condition application under § 65.2-708 of the Code of Virginia shall be accepted unless payments were made within two years from the date compensation was last paid pursuant to an award.

6. A change in condition application may be accepted and docketed when payment of compensation continues.

D. Procedures for accepting or rejecting claims are as follows:

1. After receipt, the commission shall review the claim or application for compliance with the Workers' Compensation Act and Rules of the Commission.

2. The commission may order the employer to advise whether the employee's claim is accepted or to provide reasons for denial.

a. Response to the order shall be considered a required report pursuant to § 65.2-902 of the Code of Virginia.

b. The employer's response to this order shall not be considered part of the hearing record.

3. If the employer's application is technically acceptable, the opposing party shall be permitted up to 15 days from the date the application was filed to present evidence in opposition to the application.

a. Pending acceptance or rejection of the application, the employer may suspend or modify

compensation payments as of the date for which compensation was last paid.

b. If rejected, the commission shall advise the employer of the reason for rejection and compensation shall be reinstated immediately.

c. If accepted, the application shall be referred:

(1) For dispute resolution,

(2) For decision on the record, or

(3) For an evidentiary hearing.

E. The following procedures are established for the review of decision accepting or rejection claim or application:

1. A review of a decision accepting or rejecting a change in condition claim or application shall be filed within 20 days from date of the decision. No oral argument is permitted.

2. The letter requesting a review shall specify each determination of fact and law to which exception is taken. A copy of the request shall be sent to the opposing party.

3. The opposing party shall have five days from the date the review request is filed to provide a written response to the commission.

4. Only information contained in the file at the time of the original decision along with the review request and any response from the opposing party will be considered. Additional evidence will not be accepted.

5. If the rejection of the claim or application is affirmed on review, the penalty and interest provisions of §§ 65.2-524 and 65.2-707 of the Code of Virginia shall apply from the date the application was initially rejected.

§ 2.2. Informal dispute resolution and decision on the record.

A. At the request of either party, or at the commission's direction, any case involving contested issues may be evaluated and referred for dispute resolution. Examples of limited issues often subject to prompt resolution are:

1. Average weekly wage;

2. Closed periods of disability;

3. Change in treating physician;

4. Contested medical issues including bills;

5. Permanent disability ratings;

6. Return to work;
7. Failure to report incarceration, change in address or return to work;
8. Attorney fee disputes;
9. Other issues which are ready for prompt determination.

B. The commission will screen claims and applications for hearing. When it appears that a claim may be resolved by informal dispute resolution, the commission may refer the case to a commission representative who will schedule the parties for personal appearance or telephone conference during which the commission will attempt to identify disputed issues and to bring about resolution through agreement. Parties need not be represented by counsel. If agreement is reached it shall be reduced to writing and shall be binding.

When it appears that there is no material dispute of fact as to any contested issue, determination should proceed on the record without formal hearing. After each party has been given the opportunity to file a written statement of the evidence supporting a claim or defense, the commission shall enter a decision on the record.

1. When the commission determines that decision on the record is appropriate, the parties shall be given 20 days to submit written statements and evidence. Ten additional days shall be given to respond. For good cause shown additional time may be allowed. Copies of all written statements and evidence shall be furnished to the commission and all parties.

2. Request for review of decision on the record shall proceed under § 65.2-705 of the Code of Virginia and § 4.1 of these regulations.

If it is determined that material issues of fact are in dispute or that oral testimony will be required, the case shall be referred to the docket for evidentiary hearing on those issues which are not agreed or determined by decision on the record.

§ 2.3. Compromise settlement; lump sum payment.

A. A proposed compromise settlement shall be submitted to the commission in the form of a petition setting forth:

1. The matters in controversy;
2. The proposed terms of settlement;
3. The total of medical and indemnity payments made to date of submission;
4. The proposed method of payment;
5. Such other facts as will enable the commission to

determine if approval serves the best interests of the claimant or the dependents.

B. The petition shall be signed by the claimant and, if represented, an attorney and by the other parties or their attorneys. An endorsing attorney must be licensed to practice in Virginia.

C. The petition shall be accompanied by:

1. A medical report stating the claimant's current condition and whether the injuries have stabilized;
2. An informational letter from the claimant or counsel stating whether the claimant is competent to manage the proceeds of the settlement and describing the plan for managing the proceeds;
3. A notarized affidavit attesting the claimant's understanding of and voluntary compliance with the terms of the settlement; and
4. A fee statement endorsed by the claimant and the claimant's attorney.

D. If the proposed settlement contemplates payment in a lump sum, the petition shall set forth in detail the facts relied upon to show that the best interests of the employee or the dependents will be served thereby.

If the proposed settlement contemplates an annuity, the petition shall state that the company issuing the annuity is rated A+ by A.M. Best & Company or comparable rating by another company and that in case of default, the employer or carrier shall remain responsible for payment.

§ 2.4. Discovery.

A. The scope of discovery shall extend only to matters which are relevant to issues pending before the commission and which are not privileged. Discovery may be obtained by oral or written deposition, interrogatories to parties, production of documents or things, inspection of premises or other means of inquiry approved by the commission.

B. The commission may limit the frequency or extent of discovery if it is unreasonably cumulative, duplicative, expensive or if the request was not timely made. The commission will consider the nature and importance of the contested issues, limitations on the parties' resources and whether the information may be obtained more conveniently and economically from another source.

C. Except as specifically provided by these regulations, the parties may by written stipulation agree to other methods of discovery or provide that depositions may be taken before any person, at any time or place, upon any notice and in any manner and when so taken may be used like other depositions.

Proposed Regulations

D. A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement a response to include information thereafter acquired unless such information materially affects a prior response.

E. Upon good cause shown, the commission may enter an order limiting discovery to protect a party, a witness, or other person from embarrassment, oppression, or undue burden or expense.

F. A party requesting a subpoena for witness or subpoena duces tecum shall prepare the subpoena and submit it to the commission for insertion of return date and clerk certification; a check or money order for service fee, payable to the appropriate sheriff's office, shall accompany the request. The commission shall forward the subpoena and service fee to the designated sheriff's office, unless requested to do otherwise.

Subpoenaed records may be made returnable to the requesting party or, at the direction of the commission, to the clerk of the commission or to a regional office. If subpoenaed records contain medical reports they shall be filed with the commission pursuant to subsection K of this section.

Requests for subpoenas may be filed with the commission at Richmond or in the regional office assigned to hear the case. Requests not timely filed will not be honored except when authorized by the commission for good cause shown.

1. Requests for subpoenas for witnesses shall be filed at least 10 days prior to hearing.

2. Requests for subpoenas duces tecum shall be filed at least 15 days before hearing and the subpoena shall describe with particularity the materiality of the documents or articles to be produced.

All requests for subpoenas duces tecum shall be served on each counsel of record, or the unrepresented party, by delivering or mailing a copy to each on or before the day of filing. Each request shall have appended either acceptance of service or a certificate that copies were served in accordance with the law, showing the date of delivery or mailing.

G. After a claim or application has been filed, any party may take the testimony of any person, including a party, by deposition upon oral examination or upon written questions.

The attendance of witnesses may be compelled by subpoena. The deposition of a party or physician may be taken without permission of the commission. Leave of the commission shall be obtained to take the deposition of any other persons. Depositions shall be taken in accordance with the requirements and limitations of the Rules of the Supreme Court of Virginia governing actions at law unless

the parties stipulate to discovery as set forth in subsection C of this section, supra.

For good cause shown the deposition of an attending panel physician may be ordered to be taken at the expense of the employer if the physician has not prepared and completed an Attending Physician's Report (Form 6) or has not otherwise prepared written reports which are sufficient to answer questions concerning injury, diagnosis, causation, disability and other matters not stipulated and deemed by the commission to be material to a claim or to a defense.

Upon timely application and, if deposition is deemed to be necessary for the proper adjudication of a claim or defense, the commission may compel the testimony of an attending physician.

H. After a claim or application has been filed, interrogatories limited to contested issues may be served by one party on another party without prior commission approval.

Answers to each interrogatory are to be filed within 21 days after service. Objections must be included with answers. If there is objection to an interrogatory and the party serving the interrogatory moves the commission for relief, the hearing officer shall enter an order resolving the issue, after giving the parties an opportunity to state their positions in writing.

No party shall serve upon any other party, at one time or cumulatively, more than 10 interrogatories, including all parts and subparts, without leave of the commission for good cause shown. Leave shall be timely requested in writing. Relevant interrogatories should be served promptly upon commencement of a contested claim.

It is not necessary to file interrogatories or answers with the commission unless they are the subject of a motion.

I. After a claim or application has been filed, a party may serve upon any other party a written request for the admission of the truth of any material matter.

Each request must be numbered and set forth separately. Copies of documents shall be served with the request unless they have been furnished or made available for inspection and copying.

An admission under this rule may be used only for providing evidence in the proceeding for which the request was made and shall not have force or effect with respect to any other claim or proceeding. An admission or denial must be offered in evidence to be made part of the record.

J. If the average weekly wage is contested, the employer shall timely file a wage chart showing all wages earned by an employee in its employment for the term of employment, not to exceed one year before the date of

injury.

If an employee has earned wages in more than one employment, the employee shall have responsibility for filing information concerning wages earned in an employment other than the one in which claim for injury is made.

K. All medical reports received by any party shall be sent immediately to the opposing party. The original or legible copy shall be filed with the commission.

All reports and records of physicians and reports for medical care directed by physicians may be admitted in evidence as testimony by physicians or medical care providers. Upon timely motion, any party shall have the right to cross-examine the source of a medical document offered for admission in evidence.

L. A party, upon reasonable notice to other parties and all persons affected thereby, may request an order compelling discovery. A timely request in writing in the form of a motion to compel discovery may be made to the commission or to such regional office of the commission where an application is assigned to be heard.

Failure of a deponent to appear or to testify, failure of a party on whom interrogatories have been served to answer, failure of a party or other person to respond to a subpoena for production of documents or other materials, or failure to respond to a request for admission shall be the basis for an order addressing a request to compel compliance or for sanctions, or both.

M. Any discovery material not admitted in evidence and filed in the commission may be destroyed by the clerk of the commission after one year from entry of a final decision of the commission or appellate court.

§ 2.5. Willful misconduct.

If the employer intends to rely upon a defense under § 65.2-306 of the Act, it shall file with the commission no more than 45 days after the date of Notice of Referral of Application to Docket, a statement of its intent to make such defense together with a statement of the particular act or acts relied upon as showing willful misconduct. A copy shall be furnished to the employee or his attorney with the employer's Prehearing Statement.

§ 2.6. Prehearing Statement.

Each party shall, within 45 days after the date of Notice of Referral of Application to Docket (Form...) file a Prehearing Statement (Form...) in accordance with the instructions on the statement. The Prehearing Statement shall be considered a required report subject to the provisions of § 65.2-902 of the Code of Virginia.

The Prehearing Statement shall contain information concerning claims, defenses, stipulations, average weekly

wage, witnesses, including identification of medical reports and depositions to be relied upon at hearing, and exhibits to be offered at hearing.

All claims and defenses shall be identified in the Prehearing Statement. Any claim or defense not identified shall be considered at hearing only upon leave of the commission.

§ 2.7. Enforcement of the Act and Rules of the Commission; sanctions.

In addition to the statutory authority of the commission to levy fines and penalties and punish contempt, the commission may enforce its rules and the provisions of the Workers' Compensation Act upon motion of a party, or upon its own motion, after giving a party or other interested person the opportunity to be heard, by imposition of the following sanctions:

1. Rejection of pleading including, but not limited to, all or parts of claims and grounds of defense;
2. Exclusion of evidence from the record;
3. Dismissal of a claim or application;
4. Imposition of costs, including attorney fees, upon either the offending party or an attorney or both.

PART III. HEARING PROCEDURE.

§ 3.1. Evidentiary hearings.

An evidentiary hearing by the commission shall be conducted as a judicial proceeding. All witnesses shall testify under oath and a record of the proceeding shall be made. Except for rules which the commission promulgates, it is not bound by statutory or common law rules of pleading or evidence nor by technical rules of practice.

The commission shall conduct hearings and make inquiry into the questions at issue to determine the substantial rights of the parties.

Hearsay evidence may be received. The party having the burden of proof shall have the right to open and close. Each party shall be allowed 20 minutes in which to present evidence unless prior arrangement is made through the commission to extend hearing time.

§ 3.2. Continuances.

The parties should be prepared to present evidence at the time and place scheduled for hearing.

A motion to continue will be granted only when it appears that material or irreparable harm may result if not granted.

Proposed Regulations

§ 3.3. Evidence.

Stipulations to agreed facts shall be included in the record. Each exhibit offered shall be marked and identified, and the record shall show whether it was admitted in evidence.

The parties shall specifically designate, by author, deponent and date, medical reports, records or depositions to be received in evidence. Those portions of a deposition to be included in the record must be specifically identified by page and line.

Only those medical reports, records or deposition portions designated by the parties or the commission may be admitted into evidence.

PART IV. POSTHEARING PROCEDURE; REVIEW BY THE COMMISSION.

§ 4.1. Request for review.

Any request for review of a decision or award of the commission shall be filed by a party in writing with the clerk of the commission within 20 days of the date of such decision or award.

The request for review should assign as error specific findings of fact and conclusions of law. Failure of a party to assign any specific error in its request for review may be deemed by the commission to be a waiver of that right.

A copy of the request for review shall be furnished to the opposing party. Upon request to the clerk, a party may obtain a copy of the hearing transcript subject to an appropriate charge.

§ 4.2. Written statements.

The commission will advise the parties of the schedule for filing brief written statements supporting their respective positions. The statements shall address all errors assigned, with particular reference to those portions of the record which support a party's position. The commission may, however, on its own motion, address any error and correct any decision on review if such action is considered to be necessary for just determination of the issues.

§ 4.3. Additional testimony.

No new evidence may be introduced by a party at the time of review except upon agreement of the parties.

Any petition for reopening of the case and taking of additional testimony will be favorably acted upon by the full commission only when it appears to the commission that such course is absolutely necessary and advisable and also when the party requesting the same is able to conform to the rules prevailing in the courts of this state

for the introduction of after-discovered evidence.

A petition to reopen a case or to receive after-discovered evidence may be considered only upon request for review.

§ 4.4. Oral argument.

A party may request oral argument at the time of application for review. Otherwise, the review shall proceed on the record.

If oral argument is requested and the commission considers it to be necessary or to be of probable benefit to the parties or to the commission in adjudicating the issues, the parties will be scheduled to present oral argument. Any party may request the commission to schedule argument by telephone conference by giving notice to the clerk of the commission and to opposing counsel at least five days before the scheduled date for argument.

Each side will be limited to no more than 15 minutes for presentation of oral argument.

If oral argument is requested and the requesting party fails to appear in person or by scheduled telephone conference, the commission will impose sanctions in the absence of good cause shown.

PART V. GENERAL RULES.

Article 1. Filing Documents.

§ 5.1. Agreements.

All written agreements concerning payment or termination of compensation shall be filed with the commission immediately upon their execution.

§ 5.2. Medical reports.

The original or a legible copy of all medical reports received by an employer or an employee relating to a claim shall be filed immediately with the commission. A copy of all reports shall be furnished to the opposing party. All medical reports relevant to a claim shall be required reports subject to provisions of § 65.2-902 of the Code of Virginia. Failure by a party to file a medical report shall be grounds for imposing sanctions. Required reports shall also include:

1. Commission Form 6 or equivalent;
2. Attending physician's notes and reports;
3. Emergency room reports;
4. Operative notes;

5. Hospital admission and discharge summaries;

6. Cumulative progress notes; and

7. Return to work or disability slips.

A medical care provider attending an injured employee shall, upon request from an employer or an employee, furnish a copy of required reports, at no cost except for a nominal copying charge.

A medical care provider is entitled to a reasonable fee for preparation of a narrative report written in response to a request from a party if the report requires significant professional research or preparation.

Article 2.

Cost of Medical Services.

§ 5.3. Cost of medical services.

A claimant under an award shall not be liable for the cost of medical services causally related to the compensable injury by accident or occupational disease.

Article 3.

Award of Attorney's Fees under § 65.2-714 of the Code of Virginia.

§ 5.4. Agreement between parties as to a fee.

An attorney's fee shall be awarded from sums recovered for the benefit of a third-party insurance carrier or a health care provider pursuant to § 65.2-714 of the Code of Virginia, if agreement is reached and the following is submitted to the commission:

1. An order, endorsed by counsel and the carrier or provider, identifying the amount of medical charges recovered and the agreed fee; and
2. Evidence that the claim was contested.

§ 5.5. Parties fail to agree on a fee.

A. An attorney's fee shall be awarded from sums recovered for the benefit of a third-party insurance carrier or a health care provider pursuant to § 65.2-714 of the Code of Virginia, if the parties cannot agree, on upon filing a motion with the commission and submission of the following:

1. Evidence that the claim was contested;
2. A statement from counsel that prior to the filing of a request with the commission the attorney and carrier or provider made a reasonable good faith effort to resolve the matter;
3. Evidence that the insurance carrier or health care provider was given reasonable notice that a motion for

an award of such fee would be made;

4. A statement including the name and address of each carrier or provider from whom the fee is requested, the amount of the medical charge recovered for each carrier or provider and the amount of the fee requested; and

5. Certification that a copy of the motion has been sent to each carrier and health care provider identified.

B. If the request is referred to the evidentiary hearing docket, counsel must provide notice of the hearing to each carrier of provider. The notice shall state the amount of the medical charge recovered for the carrier or provider, the amount of the attorney's fee requested and the time and place of the hearing.

Article 4.

Employer Responsibilities.

§ 5.6. Proof of insurance coverage.

Every employer subject to the Act shall file with the commission proof of compliance with the insurance provisions (§§ 65.2-800 and 65.2-801) of the Act. A notice from the insurer (Form No. 45F) certifying this fact will be received as acceptable proof.

§ 5.7. Posting notices.

Every employer subject to the Act shall post and keep posted, conspicuously, in the plant, shop or place of business at a location frequented by employees, notice of compliance with the provisions of the Act. Such notice shall follow substantially the form prescribed by the commission. The commission will supply employers with printed notices upon request. Failure by an employer to give such notice to an employee may constitute waiver of the notice defense pursuant to § 65.2-600 of the Code of Virginia.

Article 5.

Self-Insurance.

§ 5.8. The Commonwealth of Virginia, its municipalities and political subdivisions.

Permission for self-insurance will be granted by the commission to the Commonwealth and its political subdivisions and to Virginia municipalities upon application for certification, without submission of proof of financial ability and without deposit of bond or other security. However, the premium tax provided for in § 65.2-1006 of the Act shall be paid.

§ 5.9. Confidentiality of self-insurer information.

No record of any information concerning the solvency and financial ability of any employer acquired by a

Proposed Regulations

commissioner or his agent by virtue of his powers under the Act shall be subject to inspection; nor shall any information in any way acquired for such purposes by virtue of such powers be divulged by a commissioner or his agent, unless by order of the court, so long as said employer shall continue solvent and the compensation legally due from him, in accordance with provisions of the Act, shall continue to be paid.

Article 6. Payment of Compensation.

§ 5.10. Waiting period.

If the employee is not paid wages for the entire day on which the injury occurred, the seven-day waiting period prescribed by the Act shall include the day of injury regardless of the hour of the injury.

All days or parts of days when the injured employee is unable to earn a full day's wages, or is not paid a full day's wages, due to injury, shall be counted in computing the waiting period even though the days may not be consecutive.

§ 5.11. Direct payments.

All compensation due an injured employee or compensation awarded on account of death under the Act shall be paid directly to the beneficiary in accordance with the award. This ruling applies whether or not the employee is represented. Compensation awarded shall be paid promptly and in strict accordance with the award issued by the commission. When an award provides for an attorney fee, the employer shall pay the fee directly to the attorney unless there is alternative provision in the award.

§ 5.12. Payment without award.

The payment of compensation without award for a period of 60 days after the date of an alleged injury shall be deemed acceptance of that claim as compensable. Upon satisfactory proof of such payment, an award of compensation and medical expenses may be entered by the commission. Such award shall be subject to subsequent modification retroactively as conditions merit.

Article 7. Coal Workers' Pneumoconiosis Claims.

§ 5.13. X-ray evidence for coal workers' pneumoconiosis claims.

In any claim for first, second, or third stage pneumoconiosis under § 65.2-504 of the Code of Virginia, the employer and the employee each shall be limited to submission of not more than three medical interpretations (readings) of x-ray evidence without regard to the number of x-rays. For good cause shown, additional interpretations may be received as evidence if deemed necessary by the

commission. Any party to a contested claim, or the parties upon agreement, may submit the x-ray evidence to the commission for interpretation by the Pulmonary Committee. If a party agrees to accept the x-ray reading of the Pulmonary Committee as the binding classification, the costs of evaluation shall be borne by the commission.

§ 5.14. Appointment of Pulmonary Committee.

The commission shall appoint a Pulmonary Committee to be composed of at least three qualified physicians certified as B readers under standards promulgated by the International Labour Organization (ILO).

Article 8. Pneumoconiosis Table; Hearing Loss Table.

§ 5.15. Pneumoconiosis table.

A table for conversion of medically-classified categories of pneumoconiosis (under ILO standards) into stages of pneumoconiosis shall be promulgated by the commission and information from the table shall be the basis for determining the amount of compensation due, if any, under § 65.2-504 of the Code of Virginia for coal workers' pneumoconiosis and under § 65.2-503 of the Code of Virginia for other pneumoconioses.

TABLE

Medical interpretations of radiographic evidence, for the purpose of conversion to stages under this table, shall be based upon the ILO 1980 International Classification of Radiographs of the Pneumoconioses.

First Stage:	Category	1 and 2	p, s
	"	1	q, t
Second Stage:	Category	3	p, s
	"	2 and 3	q, t
	"	1, 2 and 3	r, u
Third Stage:	Category	A, B and C	

§ 5.16. Hearing loss table.

A table for determining compensable percentage of hearing loss shall be promulgated by the commission.

All determinations are to be made (i) without the use of a hearing aid; and (ii) with a pure-tone audiometer by air conduction alone.

Hearing loss in decibels is to be recorded at 500, 1,000, 2,000 and 3,000 cycles per second. The audiometer shall be calibrated to the ANSI 1969 standard.

The average decibel loss is to be translated into percentage of compensable hearing loss of each ear according to the following table:

Proposed Regulations

Average Decibel Loss	Percent of Compensable Hearing Loss
27	.8
28	2.2
29	3.6
30	5
31	6.7
32	8.3
33	10
34	11.7
35	13.3
36	15
37	16.7
38	18.3
39	20
40	21.7
41	23.3
42	25
43	26.7
44	28.3
45	30
46	31.7
47	33.3
48	35
49	36.7
50	38.3
51	40
52	41.7
53	43.3
54	45
55	46.7
56	48.3
57	50
58	51.7
59	53.3
60	55
61	56.7
62	58.3
63	60
64	61.7
65	63.3
66	65
67	66.7
68	68.3
69	70
70	71.7
71	73.3
72	75
73	76.4
74	77.8
75	79.2
76	80.6
77	82
78	83.4
79	84.8
80	86.2
81	87.6
82	89
83	90.4

84	91.8
85	93.2
86	94.6
87	96
88	97.4
89	98.8
90 and over	100

No allowance for presbycusis is to be made

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.

BOARD OF DENTISTRY

Title of Regulation: VR 255-01-1. Virginia Board of Dentistry Regulations.

Statutory Authority: §§ 54.1-2400, 54.1-2700 et seq., 54.1-3303, and 54.1-3408 of the Code of Virginia.

Effective Date: July 15, 1993.

Summary:

The regulations implement the authority of the Board of Dentistry to approve training and certify authorized agents to administer Schedule VI topical medicinal agents to dental patients under the direction and supervision of licensed dentists.

VR 255-01-1. Virginia Board of Dentistry Regulations.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Advertising" means a representation or other notice given to the public or members thereof, directly or indirectly, by a dentist on behalf of himself, his facility, his partner or associate, or any dentist affiliated with the dentist or his facility by any means or method for the purpose of inducing purchase, sale or use of dental methods, services, treatments, operations, procedures or products or to promote continued or increased use of such dental methods, treatments, operations, procedures or products.

"Analgesia" means the diminution or elimination of pain in the conscious patient.

"Approved schools" means those dental schools, colleges, departments of universities or colleges or schools of dental hygiene currently accredited by the Commission on Dental Accreditation of the American Dental Association, which is hereby incorporated by reference.

"Competent instructor" means any person appointed to the faculty of a dental school, college or department or a university or a college who holds a license or teacher's license to practice dentistry or dental hygiene in the

Commonwealth.

"Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal commands, produced by a pharmacologic or nonpharmacologic method, or a combination thereof.

"Dental assistant" means any unlicensed person under the supervision of a dentist who renders assistance for services provided to the patient as authorized under these regulations but shall not include an individual serving in purely a secretarial or clerical capacity.

"Dental hygiene student" means any person currently enrolled and attending an approved school/program of dental hygiene. No person shall be deemed to be a dental hygiene student who has not begun the first year of enrollment in the school; nor a person who is not attending the regularly scheduled sessions of the school in which he is enrolled.

"Dental student" means any person currently enrolled and attending an approved school of dentistry but shall not include persons enrolled in schools/programs of dental hygiene. No person shall be deemed to be a dental student who has not begun the first year of enrollment in school; nor a person who is not attending the regularly scheduled sessions of the school in which he is enrolled.

"Diagnosis" means an opinion of findings in an examination.

"Direction" means the presence of the dentist for the evaluation, observation, advice, and control over the performance of dental services.

"Examination of patient" means a study of all the structures of the oral cavity, including the recording of the conditions of all such structures and an appropriate history thereof. As a minimum, such study shall include charting of caries, identification of periodontal disease, occlusal discrepancies, and the detection of oral lesions.

"General anesthesia" means a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof.

"Local anesthesia" means the loss of sensation or pain

in the oral cavity or its contiguous structures generally produced by a topically applied agent or injected agent without causing the loss of consciousness.

"Monitoring general anesthesia and conscious sedation" includes the following: recording and reporting of blood pressure, pulse, respiration and other vital signs to the attending dentist during the conduct of these procedures and after the dentist has induced a patient and established a maintenance level.

"Monitoring nitrous oxide oxygen inhalation analgesia" means making the proper adjustments of nitrous oxide machines at the request of the dentist during the administration of the sedation and observing the patient's vital signs.

"Nitrous oxide oxygen inhalation analgesia" means the utilization of nitrous oxide and oxygen to produce a state of reduced sensibility to pain designating particularly the relief of pain without the loss of consciousness.

"Radiographs" means intraoral and extraoral x-rays of the hard and soft oral structures to be used for purposes of diagnosis.

"Recognized governmental clinic" means any clinic operated or funded by any agency of state or local government which provides dental services to the public, the dental services of which shall be provided by a licensed dentist or by persons who may be authorized herein to provide dental services under the direction of a dentist.

§ 1.2. Public participation guidelines.

A. Mailing list.

The Virginia State Board of Dentistry 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 proceeding," the subject of which is a proposed or existing regulation.
3. Final regulation adopted.

B. Being placed on list and deletion.

Any person wishing to be placed on the mailing list may have his or her name added by writing the board. In addition, the agency or board may, in its discretion, add to the list any person, organization, or publication whose inclusion it believes will further the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in subsection A of this section. Individuals and organizations will be periodically requested

to indicate their desire to continue to receive documents or be deleted from the list. Where mail is returned as undeliverable, individuals and organizations will be deleted from the list.

C. Notice of intent.

At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:1 of the Administrative Process Act, the board will publish a "notice of intent." This notice will 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. Such notice shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations.

D. Informational 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 the cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations. Such proceeding may be held separately from or in conjunction with other informational proceedings.

E. Petition of rulemaking.

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

When a proposed regulation is formulated at any meeting of the board or of a board subcommittee, or when any regulation is adopted by the board, the subject matter shall be transmitted to The Registrar of Regulations for inclusion in The Virginia Register of Regulations.

G. Advisory committees.

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

§ 1.3. License renewal and reinstatement.

The board shall forward a renewal notice to each licensee at the address of record (§ 4.2 B) prior to the expiration of the license. Failure to receive such notice shall not relieve the licensee of the responsibility to renew

Final Regulations

the license.

A. Dental renewal fees.

Every person licensed to practice dentistry shall, on or before March 31, renew their license to practice dentistry and pay an annual renewal fee of \$65 except as otherwise provided in § 1.4 of these regulations.

B. Dental hygiene renewal fees.

Every person licensed to practice dental hygiene by this board shall, on or before March 31, renew their license to practice dental hygiene and pay an annual renewal fee of \$25 except as otherwise provided in § 1.4 of these regulations.

C. Penalty fees.

Any person who does not return the completed form and fee by March 31 shall be required to pay an additional \$35 penalty fee. The board shall renew a license when the renewal form is received by the following April 30, along with the completed form, the annual registration fee, and the penalty fee.

D. Reinstatement fees and procedures.

The license of any person who does not return the completed renewal form and fees by April 30 shall automatically expire and become invalid and their practice of dentistry/dental hygiene shall be illegal. Upon such expiration, the board shall immediately notify the affected person of the expiration and the reinstatement procedures. Any person whose license has expired who wishes to reinstate such license shall submit to the board a reinstatement form, the application fee, the penalty fee, renewal fee and an assessment of \$50 per month for each month or part of a month the individual has practiced in Virginia without a valid license. The board may reinstate the license of an applicant who satisfactorily completes the board-approved examinations unless the applicant demonstrates that he has maintained continuous ethical, legal and clinical practice during the period of licensure expiration or demonstrates that the lapse was due to factors beyond the applicant's control or was other than voluntary.

§ 1.4. Other fees.

A. Dental licensure application fees.

The application for a dental license shall be accompanied by a check or money order for \$220, which includes a \$155 application fee and a \$65 initial licensure fee.

B. Dental hygiene licensure application fees.

The application for a dental hygiene license shall be accompanied by a check or money order for \$155, which

includes a \$130 application fee and a \$25 initial licensure fee.

C. Duplicate wall certificate.

Licenses desiring a duplicate wall certificate shall submit a request in writing stating the necessity for such duplicate wall certificate, accompanied by a fee of \$15. A duplicate certificate may be issued for any of the following reasons: replacing certificate that has been lost, stolen, misplaced, destroyed or is otherwise irretrievable; recording the new name of a registrant whose name has been changed by court order or by marriage; or for multiple offices.

D. Duplicate license.

Licenses desiring duplicate license shall submit a request in writing stating the necessity for such duplicate license, accompanied by a fee of \$10. A duplicate license may be issued for any of the following reasons: maintaining more than one office (notarized photocopy may be used); replacing license that has been lost, stolen, misplaced, destroyed or is otherwise irretrievable; and recording the new name of a licensee whose name has been changed by court order or by marriage.

E. Licensure certification.

Licenses requesting endorsement or certification by this board shall pay a fee of \$25 for each endorsement or certification.

F. Restricted license.

Restricted license issued in accordance with § 54.1-2714 of the Code of Virginia shall be at a fee of \$100.

G. Teacher's license.

License to teach dentistry and dental hygiene issued in accordance with §§ 54.1-2713 and 54.1-2725 of the Code of Virginia shall be at a fee of \$220 and \$155, respectively. The renewal fee shall be \$65 and \$25, respectively.

H. Temporary permit.

Temporary permit for dentists and dental hygienists issued in accordance with §§ 54.1-2715 and 54.1-2726 of the Code of Virginia shall be at a fee of \$220 and \$155, respectively. The renewal fee shall be \$65 and \$25, respectively.

I. Radiology safety examination.

Each examination administered in accordance with § 4.5(A)(11) of these regulations shall be at a fee of \$25.

J. Jurisprudence examination.

Each examination administered by the board outside the scheduled clinical examination site in accordance with §§ 2.2 A 3 and 2.2 B 3 shall be at a fee of \$25.

K. Full-time faculty license.

Full-time faculty license for dentists issued in accordance with § 54.1-2714.1 of the Code of Virginia, shall be at a fee of \$220. The renewal fee shall be \$65.

L. Endorsement license.

License by endorsement issued in accordance with § 2.3 for dental hygienists shall be at a fee of \$200 (\$175 application and \$25 initial licensure fee). The renewal fee shall be \$25.

M. Schedule VI topical medicinal agents certification.

Certifications issued in accordance with § 5.4 A 1 shall be at a fee of \$15.

§ 1.5. Refunds.

No fee will be refunded or applied for any purpose other than the purpose for which the fee is submitted.

PART II.

ENTRY AND LICENSURE REQUIREMENTS.

§ 2.1. Education.

A. Dental licensure.

An applicant for dental licensure shall be a graduate and a holder of a diploma from an accredited or approved dental school recognized by the Commission on Dental Accreditation of the American Dental Association, be of good moral character, and provide proof that the individual has not committed any act which would constitute a violation of § 54.1-2706 of the Code of Virginia.

B. Dental hygiene licensure.

An applicant for dental hygiene licensure shall have graduated from or be issued a certificate by an accredited school/program of dental hygiene recognized by the Commission on Dental Accreditation of the American Dental Association, be of good moral character, and provide proof that the individual has not committed any act which would constitute a violation of § 54.1-2728 of the Code of Virginia.

§ 2.2. Licensure examinations.

A. Dental examinations.

1. All applicants shall have successfully completed Part I and Part II of the examinations of the Joint Commission on National Dental Examinations prior to

making application to this board.

2. For the purpose of ~~§ 54.1-2713~~ § 54.1-2709 of the Code of Virginia, all persons desiring to practice dentistry in the Commonwealth of Virginia will be required to satisfactorily pass the complete board-approved examinations in dentistry as a precondition for licensure, except those persons eligible for licensure pursuant to § 54.1-103 of the Code of Virginia and subsection A of § 2.3 of these regulations. Applicants who successfully completed the board-approved examinations five or more years prior to the date of receipt of their applications for licensure by this board will be required to retake the examinations unless they demonstrate that they have maintained continuous clinical, ethical and legal practice since passing the board-approved examinations.

B. Dental hygiene examinations.

1. All applicants are required to successfully complete the dental hygiene examination of the Joint Commission on National Dental Examinations prior to making application to this board for licensure.

2. For the purpose of § 54.1-2722 of the Code of Virginia, all persons desiring to practice dental hygiene in the Commonwealth of Virginia shall be required to successfully complete the board-approved examinations in dental hygiene as a precondition for licensure, except those persons eligible for licensure pursuant to § 54.1-103 of the Code of Virginia and subsection B of § 2.3 of these regulations. Applicants who successfully complete the board-approved examinations five or more years prior to the date of receipt of their applications for licensure by this board will be required to retake the board-approved examinations unless they demonstrate that they have maintained continuous clinical, ethical and legal practice since passing the board-approved examinations.

C. All applicants for dental/dental hygiene licensure by examination shall be required to pass an examination on the Virginia dental hygiene laws and the regulations of this board.

§ 2.3. Reciprocal licensure for dentists and licensure by endorsement for dental hygienists.

A. Dental reciprocal licensure.

An applicant for dental reciprocal licensure must:

1. Be a graduate of an accredited dental school recognized by the Commission on Dental Accreditation of the American Dental Association, and

2. Be currently licensed and engaged in the active, legal and ethical practice of dentistry in a state

Final Regulations

having licensure requirements comparable to those established by the Code of Virginia with which the Virginia Board of Dentistry has established reciprocity.

B. Dental hygiene.

An applicant for dental hygiene endorsement licensure shall:

1. Be a graduate or be issued a certificate from an accredited dental hygiene school/program of dental hygiene recognized by the Commission on Dental Accreditation of the American Dental Association;
2. Be currently licensed to practice dental hygiene in another state, territory, District of Columbia or possession of the U.S., and have continuous clinical, ethical and legal practice for two out of the past four years immediately preceding application for licensure. Active patient care in armed forces dental corps, state and federal, and intern and residency programs, may substitute for required clinical practice;
3. Be certified to be in good standing from each state in which he is currently licensed or has ever held a license;
4. Have successfully completed a clinical licensing examination substantially equivalent to that required by Virginia;
5. Not have failed the clinical examination accepted by the board, pursuant to § 54.1-2722 of the Code of Virginia, within the last five years;
6. Be of good moral character;
7. Provide proof of not having committed any act which would constitute a violation of § 54.1-2706 of the Code of Virginia;
8. Successfully complete the dental hygiene examination of the Joint Commission on National Dental Examinations prior to making application to this board; and
9. Pass an examination on the laws and the regulations governing the practice of dentistry in Virginia.

§ 2.4. Temporary permit, teacher's license and full-time faculty license.

A. A temporary permit shall be issued only for the purpose of allowing dental and dental hygiene practice as limited by §§ 54.1-2715 and 54.1-2726 of the Code of Virginia until the release of grades of the next licensure examination given in this Commonwealth, after the issuance of the temporary permit.

B. A temporary permit will not be renewed unless the

permittee shows that extraordinary circumstances prevented the permittee from taking the first examination given immediately after the issuance of the permit. Such permit reissuance shall expire seven days after the release of grades of the next examination given.

C. A full-time faculty license shall be issued to any dentist who meets the entry requirements of § 54.1-2713 of the Code of Virginia, who is certified by the Dean of a dental school in the Commonwealth and who is serving full time on the faculty of a dental school or its affiliated clinics intramurally in the Commonwealth. A full-time faculty license shall remain valid only while the license holder is serving full time on the faculty of a dental school in the Commonwealth. When any such license holder ceases to continue serving full time on the faculty of the dental school for which the license was issued, the licensee shall surrender the license, which shall be null and void upon termination of full-time employment. The Dean of the dental school shall notify the board within five working days of such termination of full-time employment.

D. A temporary permit issued pursuant to § 54.1-2715, a teacher's license issued pursuant to §§ 54.1-2713, 54.1-2714 and 54.1-2725 and full-time faculty license issued pursuant to § 54.1-2714.1 of the Code of Virginia may be revoked for any grounds for which the license of a regularly licensed dentist or dental hygienist may be revoked and for any act, acts or actions indicating the inability of the permittee or licensee to practice dentistry that is consistent with the protection of the public health and safety as determined by the generally accepted standards of dental practice in Virginia.

E. Applicants for a full-time faculty license or temporary permit shall be required to pass an examination on the laws and the regulations governing the practice of dentistry in Virginia.

§ 2.5. All applications for any license or permit issued by the board shall include:

1. A final certified transcript of the grades from the college from which the applicant received the dental degree, dental hygiene degree or certificate, or post-doctoral degree or certificate; and
2. An original grade card issued by the Joint Commission on National Dental Examinations.

PART III. GENERAL ANESTHESIA AND CONSCIOUS SEDATION.

§ 3.1. Requirements to administer general anesthesia.

A. Educational requirements.

A dentist may employ or use general anesthesia on an outpatient basis by meeting one of the following:

educational criteria and by posting the educational certificate, in plain view of the patient, which verifies completion of the advanced training as required in § 3.1 A 1 or 2. The foregoing shall not apply nor interfere with requirements for obtaining hospital staff privileges.

1. Has completed a minimum of one calendar year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program in conformity with Part II of the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry" as currently published by the American Dental Association; or

2. Is board certified or board eligible in any dental specialty which incorporates into its curriculum the standards of teaching comparable to those set forth in Part II of the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry."

B. Exemptions.

A dentist who has not meet the requirements specified in subsections A or B subsection A of this section may treat patients under general anesthesia in his practice if a qualified anesthesiologist, or a dentist who fulfills the requirements specified in subsections A or B subsection A of this section is present and is responsible for the administration of the anesthetic. If a dentist fulfills requirements himself to use general anesthesia and conscious sedation, he may employ the services of a certified nurse anesthetist.

§ 3.2. Conscious sedation; intravenous and intramuscular.

A. Automatic qualification.

Dentists qualified to administer general anesthesia may administer conscious sedation.

B. Educational requirements.

A dentist may administer conscious sedation upon completion of training in conformity with requirements for this treatment modality as published by the American Dental Association in the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," while enrolled at an approved dental school or while enrolled in a post-doctoral university or teaching hospital program.

§ 3.3. General information.

A. Emergency equipment and techniques.

A dentist who administers general anesthesia and conscious sedation shall be proficient in handling emergencies and complications related to pain control procedures, including the maintenance of respiration and

circulation, immediate establishment of an airway and cardiopulmonary resuscitation, and shall maintain the following emergency airway equipment in the dental facility:

1. Full face mask for children or adults, or both;
2. Oral and nasopharyngeal airways;
3. Endotracheal tubes for children or adults, or both, with appropriate connectors;
4. A laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades for children or adults, or both;
5. Source of delivery of oxygen under controlled pressure; and
6. Mechanical (hand) respiratory bag.

B. Posting requirements.

Any dentist who utilizes general anesthesia or conscious sedation shall post in each facility the certificate of education required under §§ 3.1 A and 3.2 B or the self-certification certificate issued by the board.

C. Other.

1. The team for general anesthesia shall consist of the operating dentist, a second person to monitor and observe the patient, and a third person to assist the operating dentist.
2. Person in charge of the anesthesia must remain on the premises of the dental facility until the patient has regained consciousness and is discharged.

D. Scope of regulation.

Part III shall not apply to administration of General Anesthesia and Conscious Sedation in hospitals and surgi-centers.

§ 3.4. Report of adverse reactions.

A written report shall be submitted to the board by the treating dentist within 30 days following any mortality or morbidity that occurs in the facility or during the first 24 hours immediately following the patient's departure from the facility following and directly resulting from the administration of general anesthesia, conscious sedation, or nitrous oxide oxygen inhalation analgesia.

PART IV. RECORD KEEPING AND REPORTING.

§ 4.1. Records.

- A. Laboratory work orders.

Final Regulations

Written work order forms and subwork order forms to employ or engage the services of any person, firm or corporation to construct or reproduce or repair, extraorally, prosthetic dentures, bridges or other replacements for a part of a tooth or teeth as required by § 54.1-2719 of the Code of Virginia shall include as a minimum the following information:

1. Patient name or case number, and date.
2. The signature, license number and address of the dentist.

B. Patient records.

A dentist shall maintain patient records for not less than five years from the most recent date of service for purposes or review by the board to include the following:

1. Patient's name and date of treatment;
2. Updated health history;
3. Diagnosis and treatment rendered;
4. List of drugs prescribed, administered, dispensed and the quantity;
5. Radiographs;
6. Patient financial records and all insurance claim forms; and
7. Name of dentist and dental hygienist providing service.

§ 4.2. Reporting.

A. Dental students as hygienists.

Prior to utilizing the services of a senior dental student as a dental hygienist as provided in § 54.1-2712 of the Code of Virginia a dentist shall supply the board with the name and address of the student, the school in which the senior student is enrolled, the hours during which the student is expected to be employed as a hygienist, the expected period of employment (June and July, only) and verification that the employing dentist holds faculty appointment.

B. Current business addresses.

Each licensee shall furnish the board at all times with his current primary Virginia business address (no P.O. Box accepted). If not practicing in Virginia, the primary out-of-state business address must be furnished (no P.O. Box accepted). Each dental hygienist shall furnish current resident address (no P.O. Box accepted). All notices required by law or by these regulations to be mailed by the board to any such licensee shall be validly given when mailed to the latest address given by the licensee. All

changes of address shall be furnished to the board in writing within 30 days of such changes.

§ 4.3. Unprofessional conduct.

The following practices shall constitute unprofessional conduct within the meaning of § 54.1-2706 of the Code of Virginia:

1. Fraudulently obtaining, attempting to obtain or cooperating with others in obtaining payment for services.
2. Performing services for a patient under terms or conditions which are unconscionable. The board shall not consider terms unconscionable where there has been a full and fair disclosure of all terms and where the patient entered the agreement without fraud or duress.
3. Misrepresenting to a patient and the public the materials or methods and techniques the licensee uses or intends to use.
4. Committing any act in violation of the Code of Virginia reasonably related to the practice of dentistry and dental hygiene.
5. Delegating any service or operation which requires the professional competence of a dentist or dental hygienist to any person who is not a dentist or dental hygienist except as otherwise authorized by these regulations.
6. Certifying completion of a dental procedure that has not actually been completed.
7. Knowingly or negligently violating any applicable statute or regulation governing ionizing radiation in the Commonwealth of Virginia, including, but not limited to, current regulations promulgated by the Virginia Department of Health.
8. Permitting or condoning the placement or exposure of dental x-ray film by an unlicensed person, except where the unlicensed person has complied with § 4.5 A 11 of these regulations.

§ 4.4. Advertising.

A. Practice limitation.

A general dentist who limits his practice shall state in conjunction with his name that he is a general dentist providing only certain services, i.e., orthodontic services.

B. Fee disclosures.

Any statement specifying a fee for a dental service which does not include the cost of all related procedures services and products which, to a substantial likelihood

will be necessary for the completion of the advertised services as it would be understood by an ordinarily prudent person, shall be deemed to be deceptive or misleading. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of fees for specifically described dental services shall not be deemed to be deceptive or misleading.

C. Discounts.

Discount offers for a dental service are permissible for advertising only when the nondiscounted or full fee and the final discounted fee are also disclosed in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee.

D. Retention of broadcast advertising.

A prerecorded copy of all advertisements on radio or television shall be retained for a six-month period following the final appearance of the advertisement. The advertising dentist is responsible for making prerecorded copies of the advertisement available to the board within five days following a request by the board.

E. Routine dental services.

The purpose of this subsection is to delineate those routine dental services which may be advertised pursuant to § 54.1-2706(7) of the Code of Virginia and subsection F of § 4.4 of these regulations. The definitions as set out in Regulation I are intended to set forth a minimum standard as to what constitutes such services for advertising purposes in order to allow the public to accurately compare the fees charged for a given service and to preclude potentially misleading advertisement of fees for a given service which may be delivered on a superficial or minimum basis. Advertising of fees pursuant to of § 4.4 F 3 of these regulations is limited to the following routine dental services:

1. "Examination." A study of all the structures of the oral cavity, including the recording of the conditions of all such structures and an appropriate history thereof. As a minimum, such study shall include charting of caries, identification of periodontal disease, occlusal discrepancies, and the detection of oral lesions.
2. "Diagnosis." An opinion of findings in an examination.
3. "Treatment planning." A written statement of treatment recommendations following an examination and diagnosis. This statement shall include a written itemized treatment recommendation and written itemized fee statement.
4. "Radiographs." Shall document type and quantity. (See definitions).

5. "Complete or partial dentures and crowns." Any advertisement shall include full disclosure of all related fees and procedures.

6. "Prophylaxis." The removal of calculus, accretions and stains from exposed surfaces of the teeth and from the gingival sulcus.

7. "Simple extractions." A service for the removal of nonimpacted teeth, including a full disclosure of all related fees and procedures.

8. Other procedures which are determined by the board to be routine dental services are those services set forth in the American Dental Association's "Code on Dental Procedures and Nomenclature," as published in the Journal of the American Dental Association (JADA), as amended, which is hereby adopted and incorporated by reference.

F. The following practices shall constitute false, deceptive or misleading advertising within the meaning of § 54.1-2706(7) of the Code of Virginia.

1. Publishing an advertisement which contains a material misrepresentation or omission of facts.
2. Publishing an advertisement which contains a representation or implication that is likely to cause an ordinarily prudent person to misunderstand or be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation or implication not deceptive.
3. Publishing an advertisement which fails to include the information and disclaimers required by § 4.4 of these regulations.

G. Signage.

Advertisements, including but not limited to signage, containing descriptions of the type of dentistry practiced or a specific geographic locator are permissible so long as the requirements of §§ 54.1-2718 and 54.1-2720 of the Code of Virginia are complied with.

§ 4.5. Nondelegable duties.

A. Nondentists.

The following duties shall not be delegated to a nondentist:

1. Final diagnosis and treatment planning.
2. Performing surgical or cutting procedures on hard or soft tissue.
3. Prescribing drugs, medicaments and work authorizations.

Final Regulations

4. Adjusting fixed or removable appliances or restorations in the oral cavity.
5. Making occlusal adjustments in the oral cavity.
6. Performing pulp capping and pulpotomy procedures.
7. Administering and monitoring local or general anesthetics, conscious sedation and administering nitrous oxide oxygen inhalation analgesia, except as provided for in § 54.1-2701 of the Code of Virginia and § 5.4 A 17 of these regulations.
8. Condensing and carving amalgam restorations.
9. Placing and contouring silicate cement and composite resin restorations.
10. Placement and fitting of orthodontic arch wire and making ligature adjustments creating active pressure on the teeth.
11. No person, not otherwise licensed by the board, shall place or expose dental x-ray film unless he has (i) satisfactorily completed a course or examination recognized by the Commission on Dental Accreditation of the American Dental Association, or (ii) been certified by the American Society of Radiological Technicians, (iii) satisfactorily completed a course and passed an examination in compliance with guidelines provided by the board, or (iv) passed the board's examination in radiation safety and hygiene followed by on-the-job training. Any individual not able to successfully complete the board's examination after two attempts may be certified only by completing clause (i), (ii) or (iii) of this provision. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.
12. Taking impressions for any working model except as provided in § 5.3 A 2 of these regulations.

PART V. DIRECTION AND UTILIZATION OF DENTAL HYGIENISTS AND DENTAL ASSISTANTS.

§ 5.1. Employment of dental hygienists.

No dentist shall direct more than two dental hygienists at one and the same time.

§ 5.2. Required direction.

In all instances, a licensed dentist assumes ultimate responsibility for determining, on the basis of his diagnosis, the specific treatment the patient will receive and which aspects of treatment will be delegated to qualified personnel in accordance with these regulations and the Code of Virginia.

Dental hygienists and assistants shall engage in their

respective duties only while in the employment of a licensed dentist or governmental agency and under the direction and control of the employing dentist or the dentist in charge, or the dentist in charge or control of the governmental agency. The dentist shall be present and evaluate the patient during the time the patient is in the facility. Persons acting within the scope of a license issued to them by the board under § 54.1-2725 of the Code of Virginia to teach dental hygiene and those persons licensed pursuant to § 54.1-2722 of the Code of Virginia providing oral health education and preliminary dental screenings in any setting are exempt from this section.

§ 5.3. Dental hygienists.

A. The following duties may be delegated to dental hygienists under direction:

1. Scaling, root planing and polishing natural and restored teeth using hand instruments, rotary instruments, prophy-jets and ultrasonic devices.
2. Taking of working impressions for construction of athletic and fluoride guards.
3. Performing an original or clinical examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for assisting the dentist in the diagnosis.

§ 5.4. Dental hygienists and dental assistants.

A. Only the following duties may be delegated to dental hygienists and dental assistants under direction:

1. *Application of topical medicinal agents* No person not otherwise licensed by the board shall apply Schedule VI topical medicinal agents, including topical fluoride or desensitizing agents (aerosol topical anesthesia excluded), unless the individual has (i) satisfactorily completed a course or examination recognized by the Commission on Dental Accreditation of the American Dental Association and been certified by the board, or (ii) satisfactorily completed a training program approved by the board and been certified by the board. This training program may be implemented by dentists and dental hygienists who are currently licensed to practice dentistry and dental hygiene in Virginia, and by certified dental assistants who are currently certified by the Dental Assisting National Board. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.
2. Acid etching in those instances where the procedure is reversible.
3. Application of sealants.
4. Serving as a chairside assistant aiding the dentist's treatment by concurrently performing supportive

procedures for the dentist, including drawing up and compounding medications for administration by the dentist. The foregoing shall not prohibit the dentist from delegating to another licensed health care professional duties within the scope of their respective practice.

5. Placing and removing matrixes for restorations.
6. Placing and removing rubber dam.
7. Placing and removing periodontal packs.
8. Polishing natural and restored teeth by means of a rotary rubber cup or brush and appropriate polishing agent.
9. Holding and removing impression material for working models after placement in the patient's mouth by the dentist.
10. Taking nonworking impressions for diagnostic study models.
11. Placing of amalgam in prepared cavities with the carrier to be condensed and carved by the dentist.
12. Placing and removing elastic orthodontic separators.
13. Checking for loose orthodontic bands.
14. Removing arch wires and ligature ties.
15. Placing ligatures to tie in orthodontic arch wire that has been fitted and placed by the dentist.
16. Selecting and prefitting of orthodontic bands for cementation by the dentist.
17. Monitoring of nitrous oxide oxygen inhalation analgesia.
18. Placing and exposing dental x-ray film. (No person who is not otherwise licensed by the board shall place or expose dental x-ray film unless the requirements of subsection A, paragraph 11, of § 4.5 of these regulations have been fulfilled.)
19. Removing socket dressings.
20. Instructing patients in placement and removal of retainers and appliances after they have been completely fitted and adjusted in the patient's mouth by the dentist.
21. Removing sutures.
22. Removing supragingival cement on crowns, bands, and restorations.

Any procedure not listed above is prohibited.

§ 5.5. What does not constitute practice.

A. Oral health education and preliminary dental screenings in any setting are not considered the practice of dental hygiene and dentistry.

B. Recording a patient's pulse, blood pressure, temperature, and medical history.

VIRGINIA BOARD OF DENTISTRY
TRAINING GUIDELINES: PART I
TOPICAL ANESTHETICS

REGULATIONS OF THE BOARD
OF DENTISTRY

VIRGINIA BOARD OF DENTISTRY
TRAINING GUIDELINES: PART I
TOPICAL ANESTHETICS

PAGE 2 OF 3

- I. Differentiation between topical and local anesthesia**
- II. Rationale for use**
- A. Patient comfort
 - B. Pain threshold
 - C. Anxiety/apprehension
- III. Indications for use**
- A. Prior to local anesthesia
 - B. Scaling
 - C. Suture removal
 - D. Placement of periodontal dressings
 - E. Relief of oral ulcers/wounds
 - F. Reduce gag reflex: radiographs, impressions
- IV. Contra-indications**
- A. Allergic reactions
 1. Ester anesthetics
 2. Methylparaben preservative
 - B. Liver disease and amide anesthetics
- V. Mechanism of action and limits of effectiveness**
- A. Superficial, soft tissue (keratinized vs. non-keratinized)
 - B. Vasodilation and rate of absorption
 - C. High levels of concentration
 - D. Minimal tissue penetration (2-3mm)
 - E. Duration of action (15 minutes maximum)
- VI. Potential for toxicity/adverse reactions**
- A. Increased potential due to concentration
 - B. Reactions common with esters
 1. Tissue sloughing
 2. Angioedema
 - C. Low potential for cardiovascular reactions
 - D. Avoid use of spray types (not legal for RDH, DA)
 1. Poor control of amount used
 2. Inhalation risk for patient and operator; laryngeal paralysis

- VII. Types of topical anesthetics**
- A. Esters (Benzocaine)**
1. Characteristics
 - a. Low solubility in water
 - b. Prolonged duration of action
 - c. Increased allergic potential
 2. Concentration (18-22%)
 3. Trade names (Hurricane, Gingcaine, Topical, Cetacaine, Novocal, Healthco, Oradent, Pennwhite, Project, Topex)
- B. Amides (Lidocaine)**
1. Characteristics
 - a. Low solubility in water
 - b. Low toxicity
 - c. Low allergic potential
 2. Concentration (2%, 5%, 10%)
 3. Trade names (Lidocaine, Xylocaine, Alphacaine)
- C. Aliphatic compounds (Chlorbutanol)**
1. Characteristics
 - a. Antiseptic and anesthetic
 - b. Indicated for pulp exposure, post extraction
 2. Concentration
 3. Trade names
- D. Ketones (Dyclonine)**
1. Characteristics
 - a. Slow rate of absorption
 - b. Slow onset, long duration
 - c. Low toxicity
 - d. Drug of choice when esters can't be used
 2. Concentration (.5%)
 3. Trade names (Dyclone)
- E. How supplied: gels, ointments, liquids, sprays**
- VIII. Application of topical agent**
- A. Review medical history
 - B. Aseptic technique
 - C. Appropriate armamentarium
 - D. Patient instructions
 - E. Application
 - F. Record keeping

VIRGINIA BOARD OF DENTISTRY
TRAINING GUIDELINES: PART I
TOPICAL ANESTHETICS

PERFORMANCE ASSESSMENT
APPLICATION OF TOPICAL ANESTHETIC

PAGE 3 OF 3

REGISTRAR OF DENTISTS

30 MAY 24 11:11:07

Dental Assistant _____ Trainer _____

Dentist _____ Completion Date _____

Instructions for use of this form: By direct observation, the trainer will assess satisfactory [S] / unsatisfactory [U] completion of each element by placing a check in the appropriate column adjacent to the criterion specified.

CRITERION	S	U
-----------	---	---

1. Medical history is reviewed prior to use of topical anesthetic agent for any contra-indications for use.
2. Appropriate armamentarium is assembled using aseptic technique.
3. Operator opens container, avoids placing lid on tray.
4. Using sterile cotton tip applicator, the operator removes the smallest amount of anesthetic necessary for area to be treated.
5. Anesthetic is placed in disinfected dappen dish. The anesthetic container is closed prior to proceeding with treatment.
6. Area to be anesthetized is dried, using sterile gauze/compressed air to remove moisture and debris.
7. Anesthetic is applied to the site using sterile cotton tip applicator for time indicated by manufacturer.
8. Following application the cotton tip is removed, and the area is rinsed. The patient is instructed not to swallow.
9. The date, type of topical anesthetic applied, location of application, and any reaction are accurately recorded in the patient chart.

VIRGINIA BOARD OF DENTISTRY
TRAINING GUIDELINES: PART II
PROFESSIONALLY APPLIED TOPICAL FLUORIDES

- I. Review of tooth anatomy
 - A. Structure and relationship of enamel, dentin, cementum, and pulp
 - B. Mineral content of calcified tooth structure
 - C. Significance of crystalline structure, hydroxyapatite, fluorapatite
- II. Review of the caries process
 - A. Interaction of acids and plaque
 - B. Significance of saliva and acid pH
 - C. Demineralization/remineralization process
- III. What is fluoride?
 - A. Systemic
 - B. Topical
 1. Professionally applied
 2. Patient applied/home applied
- IV. Mechanism of action and efficacy
 - A. Reduce enamel solubility
 - B. Enhance remineralization through mineral deposition/crystal growth
 - C. Bactericidal
 1. High concentrations
 2. Impact on plaque reduction and gingivitis/periodontitis
 - D. Bacteriostatic
 1. Low concentrations
 2. Reduce microbe growth/inhibit acid metabolism
 - E. Modify morphology during tooth development (systemic)
 - F. Increase rate of mineralization in newly erupted teeth
 - G. Caries reduction rate: 30-40% with topicals
 - H. Reduction in plaque, gingivitis, hypersensitivity
- V. Indications for use
 - A. Determine individual patient fluoride history prior to fluoride therapy/home care recommendations
 1. Patient factors
 - a. Age and weight
 - b. Maturation and development
 - c. Dental needs
 2. Environmental factors
 - a. Concentration of fluoride in water
 - b. Dietary sources
 - c. Other bioavailable sources
 3. Type of fluoride preparation
 - a. Vehicle, concentration, and compound
 - b. Frequency and dosage (home and professional)
 - c. Application method
 - d. Products
 - B. Conditions indicating need for fluoride therapy
 1. Increased caries risk
 - a. High sucrose diet

VIRGINIA BOARD OF DENTISTRY PAGE 2 OF 5
 TRAINING GUIDELINES: PART II
 PROFESSIONALLY APPLIED TOPICAL FLUORIDES

- b. Decreased salivary production due to Mediation/radiation therapy
 - c. Root caries
 - 2. Newly erupted teeth
 - 3. Dentinal hypersensitivity
 - 4. Gingivitis/periodontal involvement
 - 5. Post-rubber cup polishing to restore fluoride-rich layer lost
 - 6. Abrasion
 - 7. Rest-sealant placement to remineralize etched surfaces
- VI. Types of professionally applied topical fluorides
- A. Compounds and concentrations
 - 1. Acidulated phosphate fluoride (APF) 1.23%
 - 2. Sodium fluoride (NaF) 2%
 - 3. Stannous fluoride (SnF₂) 8%
 - B. How supplied
 - 1. Aqueous solution
 - 2. Gel
 - 3. Thixotropic gel
 - C. Advantages/disadvantages of various compounds
 - 1. APF
 - a. Stable
 - b. Easy to apply
 - c. Does not stain teeth
 - d. Non-irritating to tissue
 - e. May etch composite and porcelain
 - 2. NaF
 - a. Stable
 - b. Does not stain teeth
 - c. Inconvenient for patient due to frequency of applications needed
 - 3. SnF₂
 - a. Most effective bacteriostatic agent
 - b. Unstable; must mix each time used
 - c. Tissue irritant
 - d. Stains teeth and composite restorations
 - e. Bitter taste
 - D. Frequency of application
 - 1. APF and stannous: at least once/twice per year; more frequent for high caries risk
 - 2. Sodium: four applications 2-7 days apart at ages 3,7,10,13 (drinking, smoking, rinsing, brushing, flossing)
 - 2. Time needed for application: 4 minutes
 - 3. Instructions for discomfort/nausea
 - E. Methods of Application and Technique
 - 1. Paint-on method
 - a. Inform patient of procedure/patient instructions
 - b. Seat patient upright
 - c. Select appropriate size cotton rolls and assemble in holder
 - d. Isolate half mouth with cotton rolls
 - e. Insert saliva ejectors, saliva absorbers
 - f. Dry teeth, beginning with maxillary arch

VIRGINIA BOARD OF DENTISTRY PAGE 3 OF 5
 TRAINING GUIDELINES: PART II
 PROFESSIONALLY APPLIED TOPICAL FLUORIDES

- g. Apply fluoride solution with cotton tip applicators; moisten all teeth continuously for 4 minutes
 - h. Remove cotton rolls and saliva ejector/absorbers; wipe excess fluoride from mouth
 - i. Repeat on opposite side of mouth
 - j. Give patient instructions
2. Tray method
- a. Inform patient of procedure/patient instructions
 - b. Seat patient upright
 - c. Select trays
 - 1. Large enough to cover most posterior tooth
 - 2. Deep enough to cover cervical third
 - d. Load tray dispensing 2ml/tray
 - e. Dry teeth, beginning with maxillary arch
 - f. Insert trays, maxillary first
 - g. Insert saliva ejector
 - h. Time application for 4 minutes
 - i. Remove trays into patient napkin/towel
 - j. Remove excess gel with saliva ejector
 - k. Instruct patient to expectorate any excess
 - l. Give patient instructions
- VIII. Fluoride Toxicity
- A. Lethal dose: 1 gram APF, SnF₂/44 pounds
 2.2 grams NaF/44 pounds
 - B. ADA recommendation: Do not exceed 264 mg dose
 - C. Acute toxicity: Rapid, excessive ingestion
 - 1. Symptoms
 - a. Nausea
 - b. Vomiting
 - c. Abdominal cramps
 - d. Diarrhea
 - e. Increased salivation, dehydration, thirst
 - f. Death within 2-4 hours without treatment
 - 2. Treatment
 - a. Induce vomiting
 - b. Ingest fluoride binder: milk, lime water
 - c. Administer antacid with aluminum or magnesium hydroxide
 - D. Chronic toxicity: Long-term ingestion of small amounts.
 Symptoms of Fluorosis: Staining, Pitting

VIRGINIA BOARD OF DENTISTRY PAGE 4 OF 5
 TRAINING GUIDELINES: PART II
 PROFESSIONALLY APPLIED TOPICAL FLUORIDES
 PERFORMANCE ASSESSMENT
 PROFESSIONALLY APPLIED TOPICAL FLUORIDES
 GEL/TRAY METHOD

Dental Assistant _____ Trainer _____
 Dentist _____ Completion Date _____

Instructions for use of this form: By direct observation, the trainer will assess satisfactory [S] / unsatisfactory [U] completion of each element by placing a check in the appropriate column adjacent to the criterion specified.

CRITERION	S	U
1. Medical history is reviewed prior to use of agent for any contraindications.		
2. Appropriate armamentarium is assembled using aseptic technique.		
3. Patient is informed of purpose of procedure and given appropriate instructions concerning activities following the fluoride treatment.		
4. Patient is seated in an upright position.		
5. Trays are pre-fit to patient's mouth and filled with an appropriate amount of gel.		
6. Teeth are dried with compressed air prior to tray placement, beginning with maxillary arch.		
7. Trays are inserted without trauma; maxillary tray inserted first.		
8. Saliva ejector is inserted without trauma.		
9. Procedure is timed for 4 minutes.		
10. Patient is monitored for adverse reaction during treatment; appropriate action is taken if adverse reaction occurs.		
11. Trays are removed and excess fluoride removed from oral cavity with saliva ejector.		
12. Patient is instructed to expectorate any excess.		
13. Patient instructions are repeated.		
14. Procedure is recorded properly in patient chart.		

VIRGINIA BOARD OF DENTISTRY PAGE 5 OF 5
 TRAINING GUIDELINES: PART II
 PROFESSIONALLY APPLIED TOPICAL FLUORIDES
 PERFORMANCE ASSESSMENT
 PROFESSIONALLY APPLIED TOPICAL FLUORIDES
 PAINT-ON TECHNIQUE

Dental Assistant _____ Trainer _____
 Dentist _____ Completion Date _____

Instructions for use of this form: By direct observation, the trainer will assess satisfactory [S] / unsatisfactory [U] completion of each element by placing a check in the appropriate column adjacent to the criterion specified.

CRITERION	S	U
1. Medical history is reviewed prior to use of agent for any contraindications.		
2. Appropriate armamentarium is assembled using aseptic technique.		
3. Patient is informed of purpose of procedure and given appropriate instructions concerning activities following the fluoride treatment.		
4. Patient is seated in an upright position.		
5. Cotton roll holders are properly assembled with appropriate size cotton rolls.		
6. Isolation of half-mouth using cotton roll holders is accomplished without trauma to soft tissues.		
7. Saliva ejector and/or saliva absorbers are inserted without trauma.		
8. Teeth are dried with compressed air, beginning with maxillary arch.		
9. Fluoride solution is applied to all teeth using cotton tip applicators.		
10. Teeth are continuously moistened with fluoride solution for 4 minutes.		
11. Cotton roll holders are removed and excess fluoride removed from oral cavity.		
12. Procedure is repeated on opposite side of the mouth.		
13. Patient is monitored during entire procedure for adverse reaction; appropriate action is taken if indicated.		
14. Patient instructions are repeated.		
15. Procedure is recorded properly in patient chart.		

VIRGINIA BOARD OF DENTISTRY
 TRAINING GUIDELINES: PART III
 APPLICATION OF DESENSITIZING AGENTS

REGULATIONS OF THE BOARD
 COMPLETED 11/11/09

VIRGINIA BOARD OF DENTISTRY
 TRAINING GUIDELINES: PART III
 PERFORMANCE ASSESSMENT
 APPLICATION OF DESENSITIZING AGENTS
 (FLUORIDE SOLUTION/PASTE, STRONTIUM CHLORIDE, CALCIUM HYDROXIDE)

Dental Assistant _____ Trainer _____
 Dentist _____ Completion Date _____

The following assumptions are made regarding patient care prior to application of any given desensitizing agent:

Tooth surface(s) are free of any barriers to the desensitizing agent via preparation of the tooth surface/s by the licensed dentist or dental hygienist.

The patient has been informed of necessary home care to enhance / supplement professionally applied desensitizing agents.

Instructions for use of this form: By direct observation, the trainer will assess satisfactory [S] / unsatisfactory [U] completion of each element by placing a check in the appropriate column adjacent to the criterion specified.

CRITERION	S	U
1. Medical history is reviewed prior to use of agent for any contra-indications relating to treatment/application of desensitizing agent.		
2. Manufacturer's instructions are read prior to application to insure proper technique and time of application for the specific agent utilized.		
3. Appropriate armamentarium is assembled using aseptic technique.		
4. Patient is informed of procedure and given appropriate instructions.		
5. Saliva ejector is placed prior to isolation.		
6. Tooth/teeth to be treated are isolated and/or dried with cotton rolls/cotton pellets prior to application; use of compressed air is avoided.		
7. Solution/paste is applied using one of the following techniques: <ul style="list-style-type: none"> a. application with cotton pellet to tooth surface. b. burnished into tooth surface with porte polisher and wooden point using circular motion/stroke. c. carpuie is crushed to release solution, solution is burnished into tooth surface using applicator tip. 		
8. Proper procedure is followed in the event patient experiences pain during application of agent (remove agent with cotton roll, rinse, reapply).		
9. Patient information/instructions are given following procedure.		
10. Proper documentation of the procedure is recorded in the patient chart.		

- I. Definition of Hyper-sensitivity
- II. Structure (histologic) and Relationship of Enamel, Dentin, Cementum, and Pulp
 - A. Relationship of dentinal tubules/odontoplastic processes to pulp
 - B. Relationship of cementum and dentin, hardness, thickness, DCJ
 - C. Relationship of enamel and dentin; hardness, thickness, DEJ
 - D. Relationship of enamel and cementum; CEJ, impact on dentin exposure
- III. Factors resulting in hyper-sensitivity
 - A. Causes
 1. Recession
 2. Abrasion: toothbrush, cemental, enamel abrasion/erosion
 3. Surgical exposure
 4. Dentin exposure at CEJ
 5. Dietary
 - B. Types of painful stimuli
 1. Mechanical
 2. Chemical
 3. Thermal
 - C. Theories regarding conduction of painful stimulus to pulp
 1. Hydrodynamic mechanism
 2. Odontoblast as specialized cell
 3. Nerve endings in dentin
 - D. Medical/dental history and examination findings relating to hyper-sensitivity
- IV. Desensitizing Agents
 - A. Types:
 1. Professionally applied
 - a. Fluorides
 - b. Iontophoresis
 - c. Calcium hydroxide/strontium chloride
 - d. Cavity varnishes, bonding
 2. Patient applied/home care methods
 - a. Dentrifices
 - b. Brush-on fluoride gels/custom tray fluorides
 - c. Role of toothbrushing technique and adequate plaque control
 - B. Mechanism of action of professionally applied and home products
 - C. Effectiveness and limitations of professionally applied and home products
 - D. Application Methods and Techniques (product dependant; refer to performance assessment)
 - E. Record keeping

REGISTRATION OF DENTAL ASSISTANTS
 APPLICATION FOR CERTIFICATION
 TO ADMINISTER SCHEDULE VI TOPICAL MEDICINAL AGENTS
 FOR DENTAL ASSISTANTS

THIS COMPLETED COPY MUST ACCOMPANY YOUR \$15.00 CERTIFICATION FEE

 FULL NAME _____
 (LAST) (FIRST) (MIDDLE)
 ADDRESS _____
 (STREET) (CITY) (ST) (ZIP)
 TELEPHONE _____
 (HOME) (OFFICE) (SOCIAL SECURITY NUMBER)

CHECK ONE:

- _____ I am applying for certification in accordance with Regulation 5.4.1.a which requires satisfactory completion of a course or examination recognized by the Commission on Dental Accreditation of the American Dental Association and I am enclosing a notarized copy of the original certificate issued by the recognized certifying entity.
- _____ I am applying for certification in accordance with Regulation 5.4.1.b which requires satisfactory completion of training approved by the Board of Dentistry and I am enclosing the properly executed Board certification form for Administration of Schedule VI Topical Medicinal Agents.

 APPLICANT'S SIGNATURE: _____ DATE _____

THIS COMPLETED FORM MUST ACCOMPANY YOUR \$15.00 CERTIFICATION FEE
 MAKE CHECKS PAYABLE TO "TREASURER OF VIRGINIA"
 AND MAIL TO: VIRGINIA BOARD OF DENTISTRY
 1601 ROLLING HILLS DRIVE
 RICHMOND, VA 23229-5005

 FOR OFFICE USE: DATE APPLICATION RECEIVED: ____/____/____
 DATE CERTIFICATION ISSUED: ____/____/____

VIRGINIA BOARD OF DENTISTRY
 TRAINING FORM
 FOR
 ADMINISTRATION OF SCHEDULE VI TOPICAL MEDICINAL AGENTS
 AS PERMITTED UNDER REGULATION 5.4.A.1

I, _____ do certify that I have received
 (dental assistant)
 training in accordance with Board of Dentistry guidelines,
 provided by a licensed dentist, licensed dental hygienist or
 certified dental assistant in the topical administration of
 Schedule VI medicinal agents including topical fluoride and
 desensitizing agents (aerosol topical anesthesia excluded).

I, _____ do certify that I have trained
 (instructor)
 the above named dental assistant in accordance with Board of
 Dentistry guidelines, provided by a licensed dentist, licensed
 dental hygienist or certified dental assistant in the topical
 administration of Schedule VI medicinal agents including topical
 fluoride and desensitizing agents (aerosol topical anesthesia
 excluded).

 SIGNATURE OF DENTAL ASSISTANT
 TO BE CERTIFIED

 SIGNATURE OF LICENSED DENTIST

LICENSE #: _____
 EXPIRATION DATE: _____

 DATE

 DATE

The dental assistant may not administer Schedule VI topical medicinal agents until the Board has issued the required certification. This certification form must be accompanied by the application form and required fee.

Final Regulations

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-11-02. Regulations Governing the Detection and Control of Phenylketonuria (REPEALED).

Title of Regulation: VR 355-11-200. Regulations Governing the Newborn Screening and Treatment Program.

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

Effective Date: July 14, 1993.

Summary:

These regulations implement state policy related to screening and treatment of genetic, metabolic, and other diseases identifiable in the newborn period as specified in § 32.1-65 of the Code of Virginia. These regulations will replace VR 355-11-02, Regulations Governing the Detection and Control of Phenylketonuria, which are being repealed concurrently with the promulgation of these regulations. The regulations (i) include diseases added to the Code of Virginia in recent years; (ii) update the regulations to conform to the most recent medical and public health standards; and (iii) delete certain unnecessary details concerning policies and procedures for newborn screening, testing and reporting.

The revisions to the regulations reflect minor changes in respective agency responsibilities and as such are technical amendments for the purpose of clarification. These changes are therefore not considered substantive.

VR 355-11-200. Regulations Governing the Newborn Screening and Treatment Program.

§ 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 State Board of Health.

"Commissioner" means the State Health Commissioner.

"Contractor" means the laboratory designated to perform the test methodologies on the newborn screening filter paper.

"Department" means the State Department of Health.

"Director" means the Director of the [~~Division of Maternal and Child Health~~ Office of Family Health Services], State Department of Health.

"Full-term infant" means [a live infant born at or after

37 weeks gestation any neonate whose birth occurs from the beginning of the first day of the 38th week following the onset of the last menstrual period] .

"Health care provider" means any physician, nurse, or midwife with initial responsibility for the care of the infant.

"Medically indigent families" means "medically indigent families" as defined by the board in the Regulations Governing Eligibility Standards and Charges for Medical Care Services.

"Newborn screening tests" means the testing for diseases of newborn infants as specified in § 32.1-65 of the Code of Virginia.

["Premature infant" means a live infant born before 37 weeks gestation.

"Preterm infant" means any neonate whose birth occurs through the end of the last day of the 37th week following the onset of the last menstrual period.]

"Treatment" means appropriate management including genetic counseling, consultation, pharmacologic and dietary management for all those newborn infants diagnosed with a disease specified in § 32.1-65 of the Code of Virginia.

§ 2. General information.

A. Authority for regulations.

Section 32.1-12 and Article 7 (§ 32.1-65 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia provide the authority of the Board of Health to promulgate regulations for the screening and treatment of diseases identifiable in the newborn period as specified in § 32.1-65 of the Code of Virginia.

B. Purpose of regulations.

The board has promulgated these regulations to establish procedures and clarify the respective responsibilities of the department and physicians, nurses, midwives, administrators of hospitals, and other persons in this Commonwealth in the detection, control and treatment of those diseases specified in § 32.1-65 of the Code of Virginia.

C. Administration of regulations.

These regulations are administered by the following:

1. State Board of Health. The Board of Health is the policy board of the State Department of Health which is obligated to provide for testing of all infants, except for those exempted from testing by law, for those diseases specified in § 32.1-65 of the Code of Virginia, to recommend procedures for the treatment of those infants diagnosed as having a specified disease, and t

provide treatment for infants in medically indigent families.

2. State Health Commissioner. The State Health Commissioner is the chief executive officer of the State Department of Health.

3. [Director of the Division of Maternal and Child Health Director of the Office of Family Health Services] . The [Director of the Division of Maternal and Child Health Director of the Office of Family Health Services] , [with the Director of the Division of Children's Specialty Services,] subject to the supervision of the Commissioner, shall administer the detection, control and treatment program in the Commonwealth for the diseases specified in § 32.1-65 of the Code of Virginia.

D. Application of regulations.

The regulations [shall become effective July 14, 1993 and] shall have general application throughout the Commonwealth.

§ 3. Testing.

A. General.

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

B. Specific policies and procedures.

Newborn screening tests shall be performed by the Department of General Services, Division of Consolidated Laboratory Services, or such other contractor as the board may select pursuant to the requirements of the Public Procurement Act (§ 11-35 et seq. of the Code of Virginia). The specific protocols and procedures for newborn screening testing shall be established by agreement between the Department of Health, [Division of Maternal and Child Health Office of Family Health Services] and the contractor.

C. Applicable time intervals for testing infants.

1. Full-term infants. A specimen shall be taken from each full-term infant for the newborn screening testing and the specimen shall be submitted to the contractor at the time of discharge from the hospital or not later than three days of age. If the delivery is unattended, then the first attending health care provider shall cause the initial newborn screening tests to be performed at the time of the first contact. In those instances where the infant is tested prior to 24 hours of age, the health care provider shall instruct the

mother or guardian that the infant shall be retested for the diseases specified in § 32.1-65 of the Code of Virginia before 14 days of life.

2. [Premature Preterm] infants. Each [premature preterm] infant shall have the screening test performed at seven days of age, or at the time of discharge from the hospital, whichever is the earlier.

3. Infants requiring transfusions. In those instances where the infant requires a transfusion with any blood product, the blood specimen for the newborn screening tests shall be obtained prior to the transfusion. Another specimen shall be taken from the infant immediately upon development of clinical symptoms consistent with a disease specified in § 32.1-65 of the Code of Virginia or at the time of discharge from the hospital, but not later than 14 days of age.

D. Testing procedures and disposition of blood specimens.

The blood specimen for the screening test shall be collected and identifying information provided in accordance with the instructions on the forms provided, and shall be sent within 24 hours from the time of collection to the contractor for testing. The contractor's name and address shall be stated on the form.

The specialized supplies required for submitting the specimens shall be provided to the health care provider by the contractor upon request from the provider.

§ 4. Reports and notifications.

The laboratory reports will be sent to the hospital or health care provider that submitted the specimen and any other health care provider identified on the laboratory form accompanying the specimen. The Director of the [Division of Maternal and Child Health Office of Family Health Services] shall be responsible for making the notifications required to discharge the department's responsibility under these regulations. The protocols and procedures for reporting and notification shall be established by agreement between the Department of Health, [Division of Maternal and Child Health Office of Family Health Services] and the contractor.

§ 5. Services and treatment provided.

The department shall provide the services of appropriate professionals to conduct clinics for the management of all patients with a disease specified in § 32.1-65 of the Code of Virginia. The department shall notify the health care providers identified in § 4 of this regulation of the availability of diagnostic evaluation and treatment services for the diseases specified in § 32.1-65 of the Code of Virginia. Services will be provided to medically indigent families at no direct cost to the family.

Final Regulations

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

Title of Regulation: VR 425-01-26. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.

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

Effective Date: July 14, 1993.

Summary:

The adopted amendment to the regulation establishes new minimum numeric ratios of apprentices to journeymen for program sponsors performing Davis-Bacon work, according to the following schedule: one apprentice for the first journeyman, two apprentices for the first two journeymen, two apprentices for the first three journeymen, two apprentices for the first four journeymen, and one additional apprentice for each two journeymen thereafter. Ratios will be based on the numbers of apprentices and journeymen at the Davis-Bacon work site. The ratio for service trucks on Davis-Bacon work sites will be one-to-one.

Sponsors receiving a citation alleging a Davis-Bacon violation affecting an apprentice must notify the Virginia Apprenticeship Council within 30 days of receipt. Council may deregister sponsors who receive final orders confirming willful or repeated violations of the Davis-Bacon Act affecting registered apprentices.

Minor amendments to the program standards section correct typographical errors and eliminate language that is no longer relevant.

VR 425-01-26. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.

§ 1. Purpose of regulation.

This regulation establishes procedures and standards for the approval and registration of apprenticeship programs and agreements in accordance with Chapter 6, Title 40.1 of the Code of Virginia. This regulation is intended to insure that apprenticeship training programs developed and registered with the Virginia Apprenticeship Council are of the highest possible quality in all aspects of on-the-job training and related instruction and that all apprenticeship programs provide meaningful employment and relevant training for all apprentices.

§ 2. Definitions.

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

"Apprentice" means a person as defined by § 40.1-120 of the Code of Virginia.

"Apprenticeable occupation" means an occupation as defined by § 40.1-120 of the Code of Virginia.

"Apprenticeship agreement" means a written agreement between an apprentice and a program sponsor, which agreement shall meet the criteria outlined in § 5 of these regulations.

"Apprenticeship Council" or "council" means the Virginia Apprenticeship Council established pursuant to § 40.1-117 of the Code of Virginia.

"Apprenticeship program" means a written plan conducted or sponsored by an employer, an association of employers, a joint apprenticeship committee or an organization of employees, which contains all terms and conditions as outlined in this regulation.

"Commissioner" means the Commissioner of the Virginia Department of Labor and Industry.

"Sponsor" means an employer, an association of employers, a joint apprenticeship committee or an organization of employees that has an approved apprenticeship program registered with the council.

"Supervisor of apprentices" means the person designated by the sponsor to perform the duties outlined in the standards of apprenticeship.

§ 3. Eligibility for registration of programs and agreements.

A. Proposed apprenticeship programs conforming to § 4 of these regulations may be submitted to the council for approval and registration by any of the following potential program sponsors:

1. A joint apprenticeship committee (Commonwealth, area or in-plant).
2. An individual employer having no bargaining agreement with those of his employees engaged in the trade to which the standards apply.
3. An association of employers whose members participating under the standards have no bargaining agreement with their employees.
4. An individual employer or an association of employers where there is a collective bargaining agreement or other instrument that provides for union participation in any manner in the proposed program, and such participation is exercised. The sponsor shall obtain from the collective bargaining agent written acknowledgement of the union agreement or a statement of no objection to the registration of the proposed program.

(NOTE: Where no such participation is evidenced and practiced, the employer or association of employers shall simultaneously furnish to the union, which is the collective bargaining agent of the employees to be trained, a copy of the apprenticeship program. The council will allow 60 days for receipt of union comments, if any, before final action is taken on the application for approval and registration.)

5. An organization of employees when the employer or employer association waives participation in the standards.

6. Apprenticeship programs and standards of employers and unions in other than the building and construction industry, which jointly form a sponsoring entity on a multistate basis and are registered, pursuant to all requirements of Title 29, Part 29 of the Code of Federal Regulations, by any recognized State Apprenticeship Agency/Council or the Bureau of Apprenticeship and Training, U.S. Department of Labor, shall be accorded registration upon request by the sponsoring entity.

B. Apprentices shall be individually registered under a registered program. Such registration may be effected:

1. By program sponsors filing copies of each apprenticeship agreement; or

2. By program sponsors filing a master copy of such agreement followed by a listing of the name and other required data of each individual when apprenticed.

C. The council may refuse to accept a program proposed for registration if, in its judgment, the program, the sponsor or any participants are unable to conduct the program in accordance with this regulation.

D. Approved apprenticeship programs shall be accorded registration, evidenced by written notification of registration.

§ 4. Standards for apprenticeship programs.

An apprenticeship program to be eligible for registration with the Virginia Apprenticeship Council shall conform to the following standards:

A. The program is an organized written plan embodying the terms and conditions of employment, training and supervision of one or more apprentices in an apprenticeable occupation and subscribed to by a sponsor who has undertaken to carry out the apprentice training program.

B. The program standards contain the equal opportunity pledge and, when applicable, conform with all other requirements in accordance with the Virginia State Plan for Equal Employment Opportunity in Apprenticeship and provisions concerning the following:

1. The employment and training of the apprentice in an apprenticeable occupation.

2. A statement that on or after the date the standards of apprenticeship are duly executed, it shall be the policy of the sponsor that all apprentices employed in the occupation covered herein shall be governed by the terms and conditions of the standards of apprenticeship, a copy of which will be provided for the sponsor who will make it available to the apprentice for review, upon request.

3. The minimum qualifications required by a sponsor for persons entering the apprenticeship program, with an eligible starting age of not less than 16 years.

4. A provision for the granting of advanced standing or credit on the term of apprenticeship for previously acquired experience, training or skills for all applicants equally, with commensurate wages for any progression step so granted. Credit will be granted only after the record of the apprentice has been reviewed by the sponsor's supervisor of apprentices.

5. The placement of an apprentice under a written apprenticeship agreement, which agreement shall conform to the standards for apprenticeship agreements as stated in § 5 of this regulation.

6. A term of apprenticeship of not less than 2,000 hours of work experience, consistent with training requirements as established by industry practice and a statement that overtime hours worked by the apprentice will or will not be credited to the term of apprenticeship.

7. Provisions for an initial probationary period of not less than 500 clock hours and no more than 2,000 clock hours of employment and training, during which time termination of the apprenticeship agreement may be effected by the council upon written notification from either party. Full credit will be given for the initial probationary period toward completion of the apprenticeship program.

8. The designation of the supervisor of apprentices whose duties shall include.

a. Maintaining adequate records of the progress of each apprentice;

b. Assurance of qualified training personnel and adequate supervision on the job;

c. Making reports as required at specified intervals regarding the aptitude, skill and progress of each apprentice;

d. Assurance the apprentice is given instruction in safe working methods in each operation as it is encountered throughout the term of apprenticeship;

Final Regulations

e. Making arrangements with the local vocational education authorities for the required related instruction;

f. Such other duties as may be necessary in developing and maintaining an effective apprenticeship program.

9. An outline of the work processes in which the apprentice will receive supervised work experience on the job and the allocation of the approximate time to be spent in each major process.

10. Provision for organized, related and supplemental instruction in technical subjects related to the trade. Such instruction may be given in a classroom through trade industrial courses or correspondence courses of equivalent value, or other forms of self-study. ~~All related and supplemental instruction will be approved by the director of vocational education.~~ A minimum of 144 hours is recommended for each year of apprenticeship.

11. Provision for a periodic evaluation of each apprentice's progress in job performance and related instruction prior to the expiration of each wage period. Should such a review reveal a lack of interest or ability on the part of the apprentice, the apprentice will be informed of the deficiency and may be placed on probation for a sufficient period of time to determine improvement or failure. At the end of the probationary period, if the apprentice has not shown acceptable improvement, the apprentice agreement may be suspended or revoked. The sponsor will provide written notice of the final action taken to the apprentice and the Virginia Apprenticeship Council.

12. A statement that hours of work for apprentices shall be the same as for other employees in the trade and whether time spent at related instruction will or will not be considered as hours of work.

13. A progressively increasing schedule of wages to be paid the apprentice consistent with the skill acquired and established in accordance with federal and state wage laws.

14. *Provisions concerning the ratio of apprentices to journeymen. Effective January 8, 1988, the minimum numeric ratio of apprentices to journeymen shall be 1:2. Effective June 1, 1989, the*

a. The minimum numeric ratio of apprentices to journeymen shall be 1:1 these provisions are nonseverable except as noted in subdivision B 14 b of this section . Individual program sponsors shall propose, as part of their apprenticeship standards, a ratio of apprentices to journeymen consistent with proper supervision, training, safety and continuity of employment, applicable provisions in collective bargaining agreements, and applicable requirements

of recognized licensing boards or authorities.

The Department of Labor and Industry, Division of Apprenticeship Training, will review and approve all ratio proposals based on the explanation and justification provided by each program sponsor. Consideration will be given, but not limited to, the following factors:

a. (1) Evidence of ability to assure proper supervision, training, safety, and continuity of employment under the proposed ratio;

b. (2) The specific nature of the industry and occupation involved;

e. (3) Proposed hiring or upgrading of minorities, females, older workers, dislocated workers, exoffenders, the handicapped, and veterans;

d. (4) Evidence of ability to train under the proposed ratio.

If a ratio proposal is disapproved by the division, the sponsor may appeal, in writing, the decision to the commissioner. If the commissioner upholds the decision of the Apprenticeship Training Division, the sponsor may appeal to the State Apprenticeship Council. The decision of the council shall be final.

~~Program sponsors presently operating under emergency ratios may continue to do so until their emergency ratios expire. During the period January 8, 1988 to June 1, 1989, the director of the Apprenticeship Training Division may approve interim emergency ratio requests. The factors enumerated above for approval of all ratio proposals as well as the appeals process governing apprenticeship standards ratio requests shall apply to interim emergency ratio requests.~~

b. Apprenticeship ratio on Davis-Bacon worksites. Effective July 1, 1993, the minimum numeric ratio of apprentices to journeymen for individual program sponsors and for individual contractors signatory to joint and nonjoint apprenticeship programs performing work under the Davis-Bacon and related federal prevailing wage laws shall be worksite-specific and shall be as follows:

one apprentice to the first journeyman;

two apprentices to the first two journeymen;

two apprentices to the first three journeymen;

two apprentices to the first four journeymen; and

one additional apprentice for each two journeymen thereafter.

The ratio for service trucks on Davis-Bacon worksites shall be one apprentice to one journeyman.

Bids submitted for Davis-Bacon work on or after July 1, 1993, must observe these minimum ratio requirements.

These ratio provisions shall apply until either the Congress of the United States or the U.S. Department of Labor mandate different or uniform ratios for Davis-Bacon work.

c. Other requirements related to Davis-Bacon worksites. Sponsors shall notify the Virginia Apprenticeship Council within 30 days of receipt of a citation alleging a violation of the Davis-Bacon Act affecting an apprentice. The notice must be in a form specified by the policies of the Apprenticeship Council. Failure to report citations shall be an omission for which council may consider requiring a remedial action plan or deregistration of the sponsor's program.

The Apprenticeship Council may deregister sponsors who receive final orders of the U.S. Department of Labor or the courts confirming willful or repeated violations of the Davis-Bacon Act affecting registered apprentices.

The effectiveness of the numeric ratio approved for individual program sponsors will be examined every two years during the program sponsor evaluation process.

15. A procedure for lay-off, suspension, cancellation and reinstatement of apprentices. Apprentices may be laid off in the commensurate ratio of apprentices to journeymen. Provided, however, any apprentice laid off shall be offered reinstatement in the seniority standing before any new apprentices shall be registered. Where there is a collective bargaining agreement providing for lay-off procedures for apprentices, it shall prevail over the above stated procedures. The council will be notified in writing of all lay-offs, suspensions, cancellations and reinstatements. The notice will state the reason for the specific action.

16. A statement that if and when the sponsor is no longer able to fulfill his obligations for the training of an apprentice, the apprentice may be transferred or registered with credit for previous training to another sponsor.

17. A statement that the sponsor will notify the council of persons who have successfully completed the apprenticeship program and request the council to prepare a Certificate of Completion for issuance to each person.

18. A statement that the sponsor shall instruct the apprentice in safe and healthful work practices and shall insure that the apprentice is trained in facilities and other environments that meet the Virginia Occupational Safety and Health Standards for General Industry and the Construction Industry, developed pursuant to the Federal Occupational Safety and Health Act.

19. A statement that in the event a difference of opinion should arise as to any provision of the apprenticeship agreement, either party to the apprenticeship agreement may consult with the council for clarification of the matter in question.

20. The sponsor's assurance that any modification or amendment of the apprenticeship program will be promptly submitted to the council. Any such modification shall be approved by the council and such modification shall not alter or affect apprenticeship agreements in effect without the consent of all parties affected.

21. A statement that the sponsor may have the program cancelled by submitting a written request to the council.

22. A statement that the apprenticeship program may be cancelled by the council if the program is not conducted in accordance with these regulations.

23. A statement identifying the Virginia Apprenticeship Council as the registration agency which agency is recognized by the Bureau of Apprenticeship and Training, United States Department of Labor.

24. A statement identifying the apprentice's responsibilities as an employee.

§ 5. Standards for apprenticeship agreements.

The apprenticeship agreement shall contain explicitly or by reference:

1. Names and signatures of the contracting parties (apprentice and sponsor) and the signature of a parent or guardian if the apprentice is a minor.

2. The date of birth, sex, race, social security number and veteran status of the apprentice.

3. Name and address of the sponsor, apprentice and the Virginia Apprenticeship Council.

4. The trade or craft in which the apprentice is to be trained, and the beginning date and duration of the apprenticeship.

5. The number of hours to be spent by the apprentice in work on the job and the number of hours to be spent in related or supplemental instruction.

Final Regulations

6. A schedule of the work processes in the trade or industry divisions in which the apprentice is to be trained and the approximate time to be spent at each process.

7. A graduated scale of wages to be paid the apprentice contingent upon satisfactory performance and whether or not the apprentice will be paid for attendance at related or supplemental instruction.

8. Statements providing:

a. For a specific initial probationary period conforming to subdivision B 7 of § 4 of these regulations;

b. That after the initial probationary period, the apprenticeship agreement ~~and as it may be amended or modified during the period of the agreement may be cancelled or suspended in accordance with subdivision B 11 of § 4 of these regulations~~.

9. A reference incorporating as part of the agreement the standards of the apprenticeship program as it exists on the date of the agreement and as it may be amended or modified during the period of the agreement.

10. A statement that the employment and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religion, national origin, sex or physical handicap which is unrelated to the person's qualification and ability to perform the job.

11. The educational level of the apprentice.

12. Credit for previous experience granted the apprentice.

13. A provision that a sponsor who is unable to fulfill his obligation under the apprentice agreement may, with the approval of the council, transfer such contract to any other sponsor, provided the apprentice consents and such other sponsor agrees to assume the obligations of the apprentice agreement.

§ 6. Deregistration procedure.

Deregistration of a program may be effected upon the voluntary action of the sponsor by a written request for cancellation of the registration or by the council instituting formal deregistration proceedings in accordance with the provisions of this section.

A. Voluntary deregistration.

The council may cancel the registration of an apprenticeship program by a written acknowledgement of a request stating, but not limited to, the following matters:

1. The registration is cancelled at the sponsor's request, and the effective date thereof.

2. That within 15 days of the date of the acknowledgement, the sponsor shall:

a. Notify all apprentices of such cancellation and the effective date;

b. Inform each apprentice that such cancellation automatically deprives the apprentice of individual registration; and

c. That the cancellation of the program removes the apprentice from coverage for federal and state purposes which require approval of an apprenticeship program.

B. Involuntary deregistration.

Deregistration proceedings may be undertaken by the council when an apprenticeship program is not conducted, operated and administered in accordance with these regulations, except that deregistration proceedings for violation of equal opportunity requirements shall be processed in accordance with the provisions of the Virginia State Plan for Equal Employment Opportunity in Apprenticeship.

1. Council will notify the sponsor in writing of deregistration for one year after receiving substantial evidence in the record of either:

a. Exposing an apprentice to imminent danger in violation of state occupational safety and health standards;

b. Failure to provide supervision that is adequate for the period of training and the type of work being performed, sufficient to achieve the level of skill training of the craft, and sufficient to reasonably protect the apprentice from serious occupational injury or illness; or

c. Failure to train an apprentice in accordance with approved apprenticeship program standards and knowingly or fraudulently certifying completion of training.

In lieu of deregistration, council may impose on the program sponsor a remedial action plan designed to bring the program sponsor into compliance with these regulations.

In cases where an employer or employers who are signatory to a joint or nonjoint apprenticeship agreement act in such a manner that the program is not conducted, operated, or administered in accordance with these regulations, council may impose on the joint or nonjoint apprenticeship program a remedial action plan designed to bring the individual

member employer(s) into compliance with these regulations.

Prior to any vote by council to deregister an apprenticeship program, or to impose a formal remedial action plan, the program sponsor shall be:

- a. Notified by registered mail that council intends to take such action, with the alleged infraction(s) indicated; and
- b. Afforded the opportunity to present information to council which bears on the decision to deregister or impose a remedial action plan, either in writing or by personal appearance, within 30 days of receipt of notification by council.

The program sponsor shall be informed in writing of council's decision regarding deregistration or remedial action.

2. Implementation of involuntary deregistration. Council may delay the deregistration for six months to afford presently registered apprentices the opportunity to complete their training. No additional apprentices will be registered during this period.

Council may also award credit to apprentices in deregistered programs sufficient to complete their apprenticeship program.

In cases where apprentices choose to change employers, because deregistration will prevent them from completing their apprenticeship, the council, through the Department of Labor and Industry, will use all appropriate means to assist them in securing employment with a registered apprenticeship sponsor.

§ 7. Reinstatement of program registration.

Any apprenticeship program deregistered pursuant to these regulations may be reinstated upon presentation of adequate evidence that the program is operating in accordance with these regulations. Such evidence shall be presented to the council.

§ 8. Hearings.

All hearings will be held in accordance with the provisions of the Administrative Process Act, Chapter 1.1:1, § 9-6.14:11 of Title 9, of the Code of Virginia.

§ 9. Limitations.

Nothing in these regulations or in any apprenticeship agreement shall operate to invalidate:

1. Any apprenticeship provision in any collective bargaining agreement between employers and employees establishing higher apprenticeship standards; or

2. Any special provisions for veterans, minority persons or females in the standard apprentice qualifications or operation of the program, or in the apprenticeship agreement, which is not otherwise prohibited by state or federal law, executive order or other regulation adopted pursuant thereto.

§ 10. Complaints.

A. This section is not applicable to any complaint concerning discrimination or equal opportunity matters; all such complaints will be processed in accordance with the provisions in the Virginia State Plan for Equal Employment Opportunity in Apprenticeship.

B. Except for matters described in subsection A of this section, any controversy or difference arising under an apprenticeship agreement which cannot be adjusted locally and which is not covered by a collective bargaining agreement, may be submitted by an apprentice or his authorized representative within 60 days after the local decision to the council for review. Matters covered by a collective bargaining agreement are not subject to review.

C. The complaint shall be in writing and signed by the complainant or his authorized representative. It shall state the specific matter(s) complained of, together with all relevant facts and circumstances. Copies of all pertinent documents and correspondence shall accompany the complaint.

D. The council shall render an opinion within 90 days after receipt of the complaint. During such 90-day period, the council shall make reasonable efforts to effect a satisfactory resolution between the parties involved.

E. If so resolved, the parties shall be notified that the case is closed. Where an opinion is rendered, copies of same shall be sent to all interested parties.

§ 11. Program sponsor evaluation procedure.

Program sponsors will be evaluated once every two years to determine adequate compliance with the goal of training apprentices under proper supervision, in a safe environment, in such a manner as to acquire the skills of the trade, with fair compensation based on individual progress consistent with average like compensation of similar industries in the area. Such evaluations will be conducted by the Apprenticeship Division staff pursuant to procedures and criteria established by the Virginia Apprenticeship Council. The council may cancel apprenticeship programs where preexisting criteria are not met.

LONGWOOD COLLEGE

Longwood College has filed the following documents with the Registrar of Regulations pursuant to the Virginia Register Act (§ 9-6.15 et seq. of the Code of Virginia):

Final Regulations

1. 1992-93 Longwood College Catalog
2. Longwood View Book
3. Transfer to Longwood-Virginia Community College System Transfer Guide
4. 1992-93 Longwood Parking Regulations
5. 1992-93 Longwood College Policies, Procedures and Sanctions for Alcohol and Other Drugs
6. 1992-93 Student Handbook
7. 1992-93 Faculty Policies and Procedures Manual
8. 1992-93 Longwood College Policies and Procedures Manual

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to EPSDT and Inpatient Psychiatric Services. VR 460-01-22. Services.

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

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

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

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

Effective Date: July 15, 1993.

Summary:

The purpose of this action is to promulgate permanent regulations to supersede the current emergency regulations which provide for the same policies. The final regulations are identical, with the exception of the technical change in the placement of the subject language, to those that were proposed for public comment.

The sections of the State Plan for Medical Assistance (the Plan) affected by this proposed regulation are: preprinted page 22; the Amount, Duration, and Scope of Services narrative (Supplement 1 to Attachment 3.1 A and B); Standards Established and Methods Used to Assure High Quality of Care (Attachment 3.1 C); and Methods and Standards for Establishing Payment Rates - Other Types of Care (Attachment 4.19 B).

The Omnibus Budget Reconciliation Act of 1989 (OBRA '89) requires that state Medicaid programs provide to recipients any and all necessary services permitted to be covered under federal law, when the need for those services are identified as a result of

screenings through the Early and Periodic Screening, Diagnosis, and Treatment Program. Such services must be provided even if they are not otherwise covered under the Plan, and are thus not available to recipients independent of EPSDT referral.

The EPSDT program provides for screening and diagnostic services to determine physical and mental defects in recipients up to age 21; and health care, treatment, and other services to correct or ameliorate any defects or chronic conditions discovered. EPSDT is a mandatory program which must be provided for all Medicaid-eligible recipients up to age 21.

One service now required to be covered for recipients because of EPSDT is inpatient psychiatric services in psychiatric hospitals. These regulations reflect the definition of covered services and the fee-for-service reimbursement methodology.

During the development of the department's policy concerning EPSDT, the Health Care Financing Administration (HCFA) provided initial guidance to the states. DMAS incorporated this guidance into its emergency regulations which HCFA subsequently approved. DMAS has tightened its definition of covered psychiatric services to be those provided in psychiatric hospitals when the services are the result of EPSDT.

Prior to the changes mandated by OBRA '89, states only covered those services (detected by screening programs) that were included in their Medicaid plans. The law now requires that Medicaid programs pay for all health care services authorized under the federal Medicaid program whether or not those services are covered in a state's plan subject to the limitations of Pereira v. Kozlowski. The costs of these EPSDT-related services are accounted for in the current appropriation.

VR 460-01-22. Services.

Citation

§ 3.1(A)(5) (Continued)

(iii) Services made available to the medically needy are equal in amount, duration, scope for each person in a medically needy coverage group.

Yes.

Not applicable. The medically needy are not included in the plan.

(a)(6) The Medicaid agency meets the requirements of 42 CFR 441.56 through 441.62 and P.L. 101-239 with respect to early and periodic screening, diagnosis, and treatment (EPSDT) services. (Citation: 441.55 50 FR 43654, P.L. 101-239 (§ 6403) and

1902(a)(43), 1905(a)(4), and 1905(r) of the Act.)

The Medicaid agency has in effect agreements with continuing care providers. Described below are the methods employed to assure the providers' compliance with their agreements.

VR 400-03-3.1100. Amount, Duration and Scope of Services.

General.

The provision of the following services cannot be reimbursed except when they are ordered or prescribed, and directed or performed within the scope of the license of a practitioner of the healing arts: laboratory and x-ray services, family planning services, and home health services. Physical therapy services will be reimbursed only when prescribed by a physician.

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

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

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

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

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

E. Reimbursement will not be provided for weekend (Friday/Saturday) admissions, unless medically justified. Hospital claims with admission dates on Friday or

Saturday will be pended for review by medical staff to determine appropriate medical justification for these days. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement coverage for these days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

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

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

G. Repealed.

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

Final Regulations

are in Attachment 3.1 E.

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

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

1. The department shall conduct periodic on-site post-payment audits of qualifying hospitals using a statistically valid sampling of paid claims for the purpose of reviewing the medical necessity of inpatient stays.
2. The hospital shall make all medical records of which medical reviews will be necessary available upon request, and shall provide an appropriate place for the department's auditors to conduct such review.
3. The qualifying hospital will immediately refund to the department in accordance with § 32.1-325.1 A and B of the Code of Virginia the full amount of any initial overpayment identified during such audit.
4. The hospital may appeal adverse medical necessity and overpayment decisions pursuant to the current administrative process for appeals of post-payment review decisions.
5. The department may, at its option, depending on the utilization review performance determined by an audit based on criteria set forth in the hospital provider manual, remove a hospital from delegated review status and reapply certain or all prepayment utilization review documentation requirements.

§ 2. Outpatient hospital and rural health clinic services.

2a. Outpatient hospital services.

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

a. Are furnished to outpatients;

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

c. Are furnished by an institution that:

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

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

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

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

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

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

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

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

§ 3. Other laboratory and x-ray services.

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

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

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

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

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

1. ~~Consistent with CFR 441.57~~ A. 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. B. 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. C. 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.

D. *Consistent with the Omnibus Budget Reconciliation Act of 1989 § 6403, early and periodic screening, diagnostic, and treatment services means the following services: screening services, vision services, dental services, hearing services, and such other necessary health care, diagnostic services, treatment, and other measures described in Social Security Act § 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services and which are medically necessary, whether or not such services are covered under the State Plan and notwithstanding the limitations, applicable to recipients ages 21 and over, provided for by the Act § 1905(a).*

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

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

B. Family planning services shall be defined as those services which delay or prevent pregnancy. Coverage of such services shall not include services to treat infertility nor services to promote fertility.

§ 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. Repealed.

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

Final Regulations

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. Nursing services provided by a home health agency.

1. 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.

2. Patients may receive up to 32 visits by a licensed nurse annually. Limits are per recipient, regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient.

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

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

2. Home health aides must meet the certification requirements specified in 42 CFR 484.36.

3. For home health aide services, patients may receive up to 32 visits annually. Limits shall be per recipient, regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient.

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

1. All medically necessary supplies, equipment, and appliances are covered for patients of the home health agency. Unusual amounts, types, and duration of usage must be authorized by DMAS in accordance with published policies and procedures. When determined to be cost-effective by DMAS, payment may be made for rental of the equipment in lieu of purchase.

2. Medical supplies, equipment, and appliances for all others are limited to home renal dialysis equipment and supplies, respiratory equipment and oxygen, and ostomy supplies, as authorized by the agency.

3. Supplies, equipment, or appliances that are not covered include, but are not limited to, the following:

a. Space conditioning equipment, such as room humidifiers, air cleaners, and air conditioners.

b. Durable medical equipment and supplies for any hospital or nursing facility resident, except ventilators and associated supplies for nursing facility residents that have been approved by DMAS central office.

c. Furniture or appliances not defined as medical equipment (such as blenders, bedside tables, mattresses other than for a hospital bed, pillows, blankets or other bedding, special reading lamps, chairs with special lift seats, hand-held shower devices, exercise bicycles, and bathroom scales).

d. Items that are only for the recipient's comfort and convenience or for the convenience of those caring for the recipient (e.g., a hospital bed or mattress because the recipient does not have a decent bed; wheelchair trays used as a desk surface; mobility items used in addition to primary assistive mobility aide for caregiver's or recipient's convenience (i.e., electric wheelchair plus a manual chair); cleansing wipes.

e. Prosthesis, except for artificial arms, legs, and their supportive devices which must be preauthorized by the DMAS central office (effective July 1, 1989).

f. Items and services which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member (for example, over-the-counter drugs; dentifrices; toilet articles; shampoos which do not require a physician's prescription; dental adhesives; electric toothbrushes; cosmetic items, soaps, and lotions which do not require a physician's prescription; sugar and salt substitutes; support stockings; and nonlegend drugs.

g. Orthotics, including braces, splints, and supports.

h. Home or vehicle modifications.

i. Items not suitable for or used primarily in the home setting (i.e., car seats, equipment to be used while at school, etc.).

j. Equipment that the primary function is vocationally or educationally related (i.e., computers, environmental control devices, speech devices, etc.).

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

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

2. Patients may receive up to 24 visits for each rehabilitative therapy service ordered annually. Limits shall apply per recipient regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient. If services beyond these limitations are determined by the physician to be required, then the provider shall request prior authorization from DMAS for additional services.

§ 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

Final Regulations

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.

Physical therapy and related services shall be defined as physical therapy, occupational therapy, and speech-language pathology services. These services shall be prescribed by a physician and be part of a written plan of care. Any one of these services may be offered as the sole service and shall not be contingent upon the provision of another service. All practitioners and providers of services shall be required to meet state and federal licensing and/or certification requirements.

11a. Physical Therapy.

A. Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, nursing facility service, home health service, services provided by a local school division employing qualified therapists, 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 service rendered to patients residing in long term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing homes' operating cost.

C. Physical therapy services meeting all of the following

conditions shall be furnished to patients:

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

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and is under the direct supervision of a physical therapist licensed by the Board of Medicine. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

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

11b. Occupational therapy.

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

B. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for occupational therapy services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

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

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

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board, a graduate of a program approved by the Council on Medical Education of the American Medical Association, and engaged in the supplemental clinical experience

required before registration by the American Occupational Therapy Association when under the supervision of an occupational therapist defined above, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant or a graduate engaged in supplemental clinical experience required before registration, such services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

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

11c. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist; see Page 1, General and Page 12, Physical Therapy and Related Services.)

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, nursing facility service, home health service, services provided by a local school division employing qualified therapists, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

B. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for speech-language pathology services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

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

1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech *Speech-Language* Pathology, or, if exempted from licensure by statute, meeting the requirements in 42 CFR 440.110(c);

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by or under the direction of a speech-language pathologist who meets the qualifications in number 1. The program shall meet the requirements of 42 CFR 405.1719(c). At least one qualified speech-language pathologist must be present at all times when speech-language pathology services are

rendered; and

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

11d. Authorization for services.

A. Physical therapy, occupational therapy, and speech-language pathology services provided in outpatient settings of acute and rehabilitation hospitals, rehabilitation agencies, or home health agencies shall include authorization for up to 24 visits by each ordered rehabilitative service within a 60-day period. A recipient may receive a maximum of 48 visits annually without authorization. The provider shall maintain documentation to justify the need for services.

B. The provider shall request from DMAS authorization for treatments deemed necessary by a physician beyond the number authorized. This request must be signed and dated by a physician. Authorization for extended services shall be based on individual need. Payment shall not be made for additional service unless the extended provision of services has been authorized by DMAS.

11e. Documentation requirements.

A. Documentation of physical therapy, occupational therapy, and speech-language pathology services provided by a hospital-based outpatient setting, home health agency, a school division, or a rehabilitation agency shall, at a minimum:

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

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

3. Document that a plan of care specifically designed for the patient has been developed based upon a comprehensive assessment of the patient's needs;

4. Include a copy of the physician's orders and plan of care;

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

6. Describe changes in each patient's condition and response to the rehabilitative treatment plan;

7. (Except for school divisions) describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination; and

Final Regulations

8. In school divisions, include an individualized education program (IEP) which describes the anticipated improvements in functional level in each school year and the time frames necessary to meet these goals.

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

11f. Service limitations. The following general conditions shall apply to reimbursable physical therapy, occupational therapy, and speech-language pathology:

A. Patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license.

B. Services shall be furnished under a written plan of treatment and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of treatment and must be related to the patient's condition.

C. A physician recertification shall be required periodically, must be signed and dated by the physician who reviews the plan of treatment, and may be obtained when the plan of treatment is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed.

D. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.

E. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

F. Physical therapy, occupational therapy and speech-language services are to be terminated regardless of the approved length of stay when further progress toward the established rehabilitation goal is unlikely or when the services can be provided by someone other than the skilled rehabilitation professional.

§ 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.

Drugs for which Federal Financial Participation is not available, pursuant to the requirements of § 1927 of the Social Security Act (OBRA '90 § 4401), shall not be

covered except from over-the-counter drugs when prescribed for nursing facility residents.

1. The following prescribed, nonlegend drugs/drug devices shall be covered: (i) insulin, (ii) syringes, (iii) needles, (iv) diabetic test strips for clients under 21 years of age, (v) family planning supplies, and (vi) those prescribed to nursing home residents.

2. Legend drugs are covered, with the exception of anorexiants prescribed for weight loss and the drugs or classes of drugs identified in Supplement 5.

3. Repealed.

4. Notwithstanding the provisions of § 32.1-87 of the Code of Virginia, and in compliance with the provision of § 4401 of the Omnibus Reconciliation Act of 1990, § 1927(e) of the Social Security Act as amended by OBRA 90, and pursuant to the authority provided for under § 32.1-325 A of the Code of Virginia, prescriptions for Medicaid recipients for multiple source drugs subject to 42 CFR § 447.332 shall be filled with generic drug products 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 shall be covered in accordance with the Social Security Act § 1927(d)(OBRA § 4401).

6. The number of refills shall be limited pursuant to § 54.1-3411 of the Drug Control Act.

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.

Screening mammograms for the female recipient population aged 35 and over shall be covered, consistent with the guidelines published by the American Cancer Society.

13c. Preventive services.

Not provided.

13d. Rehabilitative services.

A. Intensive physical rehabilitation:

1. Medicaid covers intensive inpatient rehabilitation services as defined in subdivision A 4 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 physical rehabilitation services as defined in subdivision A 4 in facilities which are certified as Comprehensive Outpatient Rehabilitation Facilities (CORFs).

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.

5. Nothing in this regulation is intended to preclude DMAS from negotiating individual contracts with in-state intensive physical rehabilitation facilities for those individuals with special intensive rehabilitation

needs.

B. Community mental health services.

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

"Code" means the Code of Virginia.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"DMHMRSAS" means Department of Mental Health, Mental Retardation and Substance Abuse Services consistent with Chapter 1 (§ 37.1-39 et seq.) of Title 37.1 of the Code of Virginia.

1. Mental health services. The following services, with their definitions, shall be covered:

a. Intensive in-home services for children and adolescents under age 21 shall be time-limited interventions provided typically but not solely in the residence of an individual who is at risk of being moved into an out-of-home placement or who is being transitioned to home from out-of-home placement due to a disorder diagnosable under the Diagnostic and Statistical Manual of Mental Disorders-III-R (DSM-III-R). These services provide crisis treatment; individual and family counseling; life (e.g., counseling to assist parents to understand and practice proper child nutrition, child health care, personal hygiene, and financial management, etc.), parenting (e.g., counseling to assist parents to understand and practice proper nurturing and discipline, and behavior management, etc.), and communication skills (e.g., counseling to assist parents to understand and practice appropriate problem-solving, anger management, and interpersonal interaction, etc.); case management activities and coordination with other required services; and 24-hour emergency response. These services shall be limited annually to 26 weeks.

b. Therapeutic day treatment for children and adolescents shall be provided in sessions of two or more hours per day, to groups of seriously emotionally disturbed children and adolescents or children at risk of serious emotional disturbance in order to provide therapeutic interventions. Day treatment programs, limited annually to 260 days, provide evaluation, medication education and management, opportunities to learn and use daily living skills and to enhance social and interpersonal skills (e.g., problem solving, anger management, community responsibility, increased impulse control and appropriate peer relations, etc.), and individual, group and family counseling.

Final Regulations

c. Day treatment/partial hospitalization services for adults shall be provided in sessions of two or more consecutive hours per day, which may be scheduled multiple times per week, to groups of individuals in a nonresidential setting. These services, limited annually to 260 days, include the major diagnostic, medical, psychiatric, psychosocial and psychoeducational treatment modalities designed for individuals with serious mental disorders who require coordinated, intensive, comprehensive, and multidisciplinary treatment.

d. Psychosocial rehabilitation for adults shall be provided in sessions of two or more consecutive hours per day to groups of individuals in a nonresidential setting. These services, limited annually to 312 days, include assessment, medication education, psychoeducation, opportunities to learn and use independent living skills and to enhance social and interpersonal skills, family support, and education within a supportive and normalizing program structure and environment.

e. Crisis intervention shall provide immediate mental health care, available 24 hours a day, seven days per week, to assist individuals who are experiencing acute mental dysfunction requiring immediate clinical attention. This service's objectives shall be to prevent exacerbation of a condition, to prevent injury to the client or others, and to provide treatment in the context of the least restrictive setting. Crisis intervention activities, limited annually to 180 hours, shall include assessing the crisis situation, providing short-term counseling designed to stabilize the individual or the family unit or both, providing access to further immediate assessment and follow-up, and linking the individual and family with ongoing care to prevent future crises. Crisis intervention services may include, but are not limited to, office visits, home visits, preadmission screenings, telephone contacts, and other client-related activities for the prevention of institutionalization.

2. Mental retardation services. Day health and rehabilitation services shall be covered and the following definitions shall apply:

a. Day health and rehabilitation services (limited to 500 units per year) shall provide individualized activities, supports, training, supervision, and transportation based on a written plan of care to eligible persons for two or more hours per day scheduled multiple times per week. These services are intended to improve the recipient's condition or to maintain an optimal level of functioning, as well as to ameliorate the recipient's disabilities or deficits by reducing the degree of impairment or dependency. Therapeutic consultation to service providers, family, and friends of the client around implementation of the plan of care may be included

as part of the services provided by the day health and rehabilitation program. The provider shall be licensed by DMHMRSAS as a Day Support Program. Specific components of day health and rehabilitation services include the following as needed:

- (1) Self-care and hygiene skills;
- (2) Eating and toilet training skills;
- (3) Task learning skills;
- (4) Community resource utilization skills (e.g., training in time, telephone, basic computations with money, warning sign recognition, and personal identifications, etc.);
- (5) Environmental and behavior skills (e.g., training in punctuality, self-discipline, care of personal belongings and respect for property and in wearing proper clothing for the weather, etc.);
- (6) Medication management;
- (7) Travel and related training to and from the training sites and service and support activities;
- (8) Skills related to the above areas, as appropriate that will enhance or retain the recipient's functioning.

b. There shall be two levels of day health and rehabilitation services: Level I and Level II.

- (1) Level I services shall be provided to individuals who meet the basic program eligibility requirements.
- (2) Level II services may be provided to individuals who meet the basic program eligibility requirements and for whom one or more of the following indicators are present.
 - (a) The individual requires physical assistance to meet basic personal care needs (toilet training, feeding, medical conditions that require special attention).
 - (b) The individual has extensive disability-related difficulties and requires additional, ongoing support to fully participate in programming and to accomplish individual service goals.
 - (c) The individual requires extensive personal care or constant supervision to reduce or eliminate behaviors which preclude full participation in programming. A formal, written behavioral program is required to address behaviors such as, but not limited to, severe depression, self injury, aggression, or self-stimulation.

§ 14. Services for individuals age 65 or older in institution

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 eight hours of care per day must be provided to qualify as continuous home care.

3. Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary caregiver(s) providing at-home care for the recipient. Respite care is limited to not more than five 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 shall 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 shall 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 shall 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 shall 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 shall be performed by appropriately qualified personnel, but it is the nature of the service, rather than the qualification of the person who provides it, that determines the coverage category of the service. The following services are covered

Final Regulations

hospice services:

a. Nursing care. Nursing care shall 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 shall 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 shall 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 shall be a licensed doctor of medicine or osteopathy.

d. Counseling services. Counseling services shall 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.

§ 19. Case management services for high-risk pregnant women and children up to age 1, as defined i

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.

Transportation services are provided to Virginia Medicaid recipients to ensure that they have necessary access to and from providers of all medical services. Both emergency and nonemergency services are covered. The single state agency may enter into contracts with friends of recipients, nonprofit private agencies, and public carriers to provide transportation to Medicaid recipients.

21b. Services of Christian Science nurses.

Not provided.

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

Provided, no limitations.

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

Provided, no limitations.

21e. Emergency hospital services.

Provided, no limitations.

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

Not provided.

Emergency Services for Aliens (17.e)

No payment shall be made for medical assistance

furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law unless such services are necessary for the treatment of an emergency medical condition of the alien.

Emergency services are defined as:

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

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

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

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

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

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

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

§ 2. Utilization control.

A. [*General acute care*] hospitals.

1. The Commonwealth of Virginia is required by state law to take affirmative action on all hospital stays that approach 15 days. It is a requirement that the hospitals submit to the Department of Medical Assistance Services complete information on all hospital stays where there is a need to exceed 15 days. The various documents which are submitted are reviewed by professional program staff, including a physician who determines if additional hospitalization is indicated. This review not only serves as a mechanism for approving additional days, but allows physicians on the Department of Medical Assistance Services' staff to evaluate patient documents and give the Program an insight into the quality of care by

Final Regulations

individual patient. In addition, hospital representatives of the Medical Assistance Program visit hospitals, review the minutes of the Utilization Review Committee, discuss patient care, and discharge planning.

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

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

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

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

B. Long-stay acute care hospitals (nonmental hospitals).

1. Services for adults in long-stay acute care hospitals. The population to be served includes individuals requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, comprehensive rehabilitative therapy services and individuals with communicable diseases requiring universal or respiratory precautions.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed comprehensive assessment instrument, a physician certification of the need for long-stay acute care hospital placement, and any additional information that justifies the need for intensive services. Physician certification must accompany the request. Periods of care not authorized by DMAS shall not be approved for payment.

b. These individuals must have long-term health conditions requiring close medical supervision, the need for 24-hour licensed nursing care, and the need for specialized services or equipment needs.

c. At a minimum, these individuals must require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is the designated unit must be on the nursing unit 24 hours a day on which the resident resides), and coordinated multidisciplinary team approach to meet needs that must include daily therapeutic leisure activities.

d. In addition, the individual must meet at least one

of the following requirements:

(1) Must require two out of three of the following rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, five days per week, for a minimum of one hour each day; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by a licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy; or

(3) The individual must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only);

(c) Dialysis treatment that is provided on-unit (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns covering more than 10% of the body); or

(f) Ongoing management of multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e. suctioning every hour; stabilization of feeding; stabilization of elimination, etc.).

e. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the individuals' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

f. When the individual no longer meets long-stay acute care hospital criteria or requires services that the facility is unable to provide, then the individual must be discharged.

2. Services to pediatric/adolescent patients in long-stay acute care hospitals. The population to be served shall include children requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, daily dependence on device-based respiratory or nutritional support (tracheostomy, gastrostomy, etc.), comprehensive rehabilitative therapy services, and those children having communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.) and with terminal illnesses.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed comprehensive assessment instrument, a physician certification of the need for long-stay acute care, and any additional information that justifies the need for intensive services. Periods of care not authorized by DMAS shall not be approved for payment.

b. The child must have ongoing health conditions requiring close medical supervision, the need for 24-hour licensed nursing supervision, and the need for specialized services or equipment. The recipient must be age 21 or under.

c. The child must minimally require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is that nursing unit must be on the unit 24 hours a day on which the child is residing), and a coordinated multidisciplinary team approach to meet needs.

d. In addition, the child must meet one of the following requirements:

(1) Must require two out of three of the following physical rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, fivedays per week, for a minimum of 45 minutes per day; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc; or

(3) Must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only or isolation for normal childhood diseases such as measles, chicken pox, strep throat, etc.);

(c) Dialysis treatment that is provided within the facility (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc. more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns covering more than 10% of the body);

(f) Ostomy care requiring services by a licensed nurse;

(g) Services required for terminal care.

e. In addition, the long-stay acute care hospital must provide for the educational and habilitative needs of the child. These services must be age appropriate, must meet state educational requirements, and must be appropriate to the child's cognitive level. Services must also be individualized to meet the child's specific needs and must be provided in an organized manner that encourages the child's participation. Services may include, but are not limited to, school, active treatment for mental retardation, habilitative therapies, social skills, and leisure activities. Therapeutic leisure activities must be provided daily.

f. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

g. When the resident no longer meets long-stay hospital criteria or requires services that the facility is unable to provide, the resident must be discharged.

[*C. Psychiatric services resulting from an EPSDT screening.*

Consistent with the Omnibus Budget Reconciliation Act of 1989 § 6403 and § 4b to Attachment 2-1 A & B Supplement 1, psychiatric services shall be covered, based on their prior authorization of medical need, for individuals younger than 21 years of age when the need for such services has been identified in a screening as defined by the Early and Periodic Screening, Diagnosis,

Final Regulations

and Treatment (EPSDT) program. The following utilization control requirements shall be met before preauthorization of payment for services can occur.

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

"Admission" means the provision of services that are medically necessary and appropriate, and there is a reasonable expectation the patient will remain at least overnight and occupy a bed.

"CFR" means the Code of Federal Regulations.

"Psychiatric services resulting from an EPSDT screening" means services rendered upon admission to a psychiatric hospital.

"DMHMRSAS" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"DMAS" means the Department of Medical Assistance Services.

"JCAHO" means Joint Commission on Accreditation of Hospitals.

"Medical necessity" means that the use of the hospital setting under the direction of a physician has been demonstrated to be necessary to provide such services in lieu of other treatment settings and the services can reasonably be expected to improve the recipient's condition or to prevent further regression so that the services will no longer be needed.

"VDH" means the Virginia Department of Health.

2. It shall be documented that treatment is medically necessary and that the necessity was identified as a result of an EPSDT screening. Required patient documentation shall include, but not be limited to, the following:

a. Copy of the screening report showing the identification of the need for further psychiatric diagnosis and possible treatment.

b. Copy of supporting diagnostic medical documentation showing the diagnosis that supports the treatment recommended.

c. For admission to a psychiatric hospital, for psychiatric services resulting from an EPSDT screening, certification of the need for services by an interdisciplinary team meeting the requirements of 42 CFR §§ 441.153 or 441.156 that:

(1) Ambulatory care resources available in the community do not meet the recipient's treatment needs;

(2) Proper treatment of the recipient's psychiatric condition requires admission to a psychiatric hospital under the direction of a physician; and

(3) The services can reasonably be expected to improve the recipient's condition or prevent further regression so that the services will no longer be needed, consistent with 42 CFR § 441.152.

3. The absence of any of the above required documentation shall result in DMAS' denial of the requested preauthorization.

4. Providers of psychiatric services resulting from an EPSDT screening must:

a. Be a psychiatric hospital accredited by JCAHO;

b. Assure that services are provided under the direction of a physician;

c. Meet the requirements in 42 CFR Part 441 Subpart D;

d. Demonstrate that it is their policy to provide services to individuals in need of comprehensive services without regard to the individual's ability to pay or eligibility for Medicaid reimbursement; and

e. Be enrolled in the Commonwealth's Medicaid program for the specific purpose of providing psychiatric services resulting from an EPSDT screening.]

E. [D. C.] Nursing facilities.

1. Long-term care of residents in nursing facilities will be provided in accordance with federal law using practices and procedures that are based on the resident's medical and social needs and requirements.

2. Nursing facilities must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity. This assessment must be conducted no later than 14 days after the date of admission and promptly after a significant change in the resident's physical or mental condition. Each resident must be reviewed at least quarterly, and a complete assessment conducted at least annually.

3. The Department of Medical Assistance Services shall conduct at least annually a validation survey of the assessments completed by nursing facilities to determine that services provided to the residents are medically necessary and that needed services are provided. The survey will be composed of a sample of

Medicaid residents and will include review of both current and closed medical records.

4. Nursing facilities must submit to the Department of Medical Assistance Services resident assessment information at least every six months for utilization review. If an assessment completed by the nursing facility does not reflect accurately a resident's capability to perform activities of daily living and significant impairments in functional capacity, then reimbursement to nursing facilities may be adjusted during the next quarter's reimbursement review. Any individual who willfully and knowingly certifies (or causes another individual to certify) a material and false statement in a resident assessment is subject to civil money penalties.

5. In order for reimbursement to be made to the nursing facility for a recipient's care, the recipient must meet nursing facility criteria as described in Supplement 1 to Attachment 3.1-C, Part 1 (Nursing Facility Criteria).

In order for reimbursement to be made to the nursing facility for a recipient requiring specialized care, the recipient must meet specialized care criteria as described in Supplement 1 to Attachment 3.1-C, Part 2 (Adult Specialized Care Criteria) or Part 3 (Pediatric/Adolescent Specialized Care Criteria). Reimbursement for specialized care must be preauthorized by the Department of Medical Assistance Services. In addition, reimbursement to nursing facilities for residents requiring specialized care will only be made on a contractual basis. Further specialized care services requirements are set forth below.

In each case for which payment for nursing facility services is made under the State Plan, a physician must recommend at the time of admission or, if later, the time at which the individual applies for medical assistance under the State Plan that the individual requires nursing facility care.

6. For nursing facilities, a physician must approve a recommendation that an individual be admitted to a facility. The resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.

7. When the resident no longer meets nursing facility criteria or requires services that the nursing facility is unable to provide, then the resident must be discharged.

8. Specialized care services.

a. Providers must be nursing facilities certified by the Division of Licensure and Certification, State Department of Health, and must have a current signed participation agreement with the Department of Medical Assistance Services to provide nursing facility care. Providers must agree to provide care to at least four residents who meet the specialized care criteria for children/adolescents or adults.

b. Providers must be able to provide the following specialized services to Medicaid specialized care recipients:

- (1) Physician visits at least once weekly;
- (2) Skilled nursing services by a registered nurse available 24 hours a day;
- (3) Coordinated multidisciplinary team approach to meet the needs of the resident;
- (4) For residents under age 21, provision for the educational and habilitative needs of the child;
- (5) For residents under age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of six sessions each day, 15 minutes per session, five days per week;
- (6) For residents over age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of four sessions per day, 30 minutes per session, five days a week;
- (7) Ancillary services related to a plan of care;
- (8) Respiratory therapy services by a board-certified therapist (for ventilator patients, these services must be available 24 hours per day);
- (9) Psychology services by a board-certified psychologist related to a plan of care;
- (10) Necessary durable medical equipment and supplies as required by the plan of care;
- (11) Nutritional elements as required;
- (12) A plan to assure that specialized care residents have the same opportunity to participate in integrated nursing facility activities as other residents;
- (13) Nonemergency transportation;
- (14) Discharge planning;

Final Regulations

- (15) Family or caregiver training; and
- (16) Infection control.

☞ [~~E. D.~~] Facilities for the Mentally Retarded (FMR) and Institutions for Mental Disease (IMD).

1. With respect to each Medicaid-eligible resident in an FMR or IMD in Virginia, a written plan of care must be developed prior to admission to or authorization of benefits in such facility, and a regular program of independent professional review (including a medical evaluation) shall be completed periodically for such services. The purpose of the review is to determine: the adequacy of the services available to meet his current health needs and promote his maximum physical well being; the necessity and desirability of his continued placement in the facility; and the feasibility of meeting his health care needs through alternative institutional or noninstitutional services. Long-term care of residents in such facilities will be provided in accordance with federal law that is based on the resident's medical and social needs and requirements.

2. With respect to each intermediate care FMR or IMD, periodic on-site inspections of the care being provided to each person receiving medical assistance, by one or more independent professional review teams (composed of a physician or registered nurse and other appropriate health and social service personnel), shall be conducted. The review shall include, with respect to each recipient, a determination of the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, the necessity and desirability of continued placement in the facility, and the feasibility of meeting his health care needs through alternative institutional or noninstitutional services. Full reports shall be made to the state agency by the review team of the findings of each inspection, together with any recommendations.

3. In order for reimbursement to be made to a facility for the mentally retarded, the resident must meet criteria for placement in such facility as described in Supplement 1, Part 4, to Attachment 3.1-C and the facility must provide active treatment for mental retardation.

4. In each case for which payment for nursing facility services for the mentally retarded or institution for mental disease services is made under the State Plan:

a. A physician must certify for each applicant or recipient that inpatient care is needed in a facility for the mentally retarded or an institution for mental disease. The certification must be made at the time of admission or, if an individual applies for assistance while in the facility, before the Medicaid agency authorizes payment; and

b. A physician, or physician assistant or nurse practitioner acting within the scope of the practice as defined by state law and under the supervision of a physician, must recertify for each applicant at least every 365 days that services are needed in a facility for the mentally retarded or institution for mental disease.

5. When a resident no longer meets criteria for facilities for the mentally retarded or an institution for mental disease or no longer requires active treatment in a facility for the mentally retarded, then the resident must be discharged.

[*E. Psychiatric services resulting from an EPSDT screening.*

Consistent with the Omnibus Budget Reconciliation Act of 1989 § 6403 and § 4b to Attachment 3.1 A & B Supplement 1, psychiatric services shall be covered, based on their prior authorization of medical need, for individuals younger than 21 years of age when the need for such services has been identified in a screening as defined by the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program. The following utilization control requirements shall be met before preauthorization of payment for services can occur.

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

"Admission" means the provision of services that are medically necessary and appropriate, and there is a reasonable expectation the patient will remain at least overnight and occupy a bed.

"CFR" means the Code of Federal Regulations.

"Psychiatric services resulting from an EPSDT screening" means services rendered upon admission to a psychiatric hospital.

"DMHMRSAS" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"DMAS" means the Department of Medical Assistance Services.

"JCAHO" means Joint Commission on Accreditation of Hospitals.

"Medical necessity" means that the use of the hospital setting under the direction of a physician has been demonstrated to be necessary to provide such services in lieu of other treatment settings and the services can reasonably be expected to improve the recipient's condition or to prevent further regression so that the services will no longer be

needed.

"VDH" means the Virginia Department of Health.

2. It shall be documented that treatment is medically necessary and that the necessity was identified as a result of an EPSDT screening. Required patient documentation shall include, but not be limited to, the following:

a. Copy of the screening report showing the identification of the need for further psychiatric diagnosis and possible treatment.

b. Copy of supporting diagnostic medical documentation showing the diagnosis that supports the treatment recommended.

c. For admission to a psychiatric hospital, for psychiatric services resulting from an EPSDT screening, certification of the need for services by an interdisciplinary team meeting the requirements of 42 CFR §§ 441.153 or 441.156 that:

(1) Ambulatory care resources available in the community do not meet the recipient's treatment needs;

(2) Proper treatment of the recipient's psychiatric condition requires admission to a psychiatric hospital under the direction of a physician; and

(3) The services can reasonably be expected to improve the recipient's condition or prevent further regression so that the services will no longer be needed, consistent with 42 CFR § 441.152.

3. The absence of any of the above required documentation shall result in DMAS' denial of the requested preauthorization.

4. Providers of psychiatric services resulting from an EPSDT screening must:

a. Be a psychiatric hospital accredited by JCAHO;

b. Assure that services are provided under the direction of a physician;

c. Meet the requirements in 42 CFR Part 441 Subpart D;

d. Be enrolled in the Commonwealth's Medicaid program for the specific purpose of providing psychiatric services resulting from an EPSDT screening.]

E. F. Home health services.

1. Home health services which meet the standards

prescribed for participation under Title XVIII will be supplied.

2. Home health services shall be provided by a licensed home health agency on a part-time or intermittent basis to a homebound recipient in his place of residence. The place of residence shall not include a hospital or nursing facility. Home health services must be prescribed by a physician and be part of a written plan of care utilizing the Home Health Certification and Plan of Treatment forms which the physician shall review at least every 62 days.

3. Except in limited circumstances described in subdivision 4 below, to be eligible for home health services, the patient must be essentially homebound. The patient does not have to be bedridden. Essentially homebound shall mean:

a. The patient is unable to leave home without the assistance of others or the use of special equipment;

b. The patient has a mental or emotional problem which is manifested in part by refusal to leave the home environment or is of such a nature that it would not be considered safe for him to leave home unattended;

c. The patient is ordered by the physician to restrict activity due to a weakened condition following surgery or heart disease of such severity that stress and physical activity must be avoided;

d. The patient has an active communicable disease and the physician quarantines the patient.

4. Under the following conditions, Medicaid will reimburse for home health services when a patient is not essentially homebound. When home health services are provided because of one of the following reasons, an explanation must be included on the Home Health Certification and Plan of Treatment forms:

a. When the combined cost of transportation and medical treatment exceeds the cost of a home health services visit;

b. When the patient cannot be depended upon to go to a physician or clinic for required treatment, and, as a result, the patient would in all probability have to be admitted to a hospital or nursing facility because of complications arising from the lack of treatment;

c. When the visits are for a type of instruction to the patient which can better be accomplished in the home setting;

d. When the duration of the treatment is such that rendering it outside the home is not practical.

Final Regulations

5. Covered services. Any one of the following services may be offered as the sole home health service and shall not be contingent upon the provision of another service.

- a. Nursing services,
- b. Home health aide services,
- c. Physical therapy services,
- d. Occupational therapy services,
- e. Speech-language pathology services, or
- f. Medical supplies, equipment, and appliances suitable for use in the home.

6. General conditions. The following general conditions apply to reimbursable home health services.

a. The patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his or her license. The physician may be the patient's private physician or a physician on the staff of the home health agency or a physician working under an arrangement with the institution which is the patient's residence or, if the agency is hospital-based, a physician on the hospital or agency staff.

b. Services shall be furnished under a written plan of care and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of care and must be related to the patient's condition. The written plan of care shall appear on the Home Health Certification and Plan of Treatment forms.

c. A physician recertification shall be required at intervals of at least once every 62 days, must be signed and dated by the physician who reviews the plan of care, and should be obtained when the plan of care is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long home health services will be needed. Recertifications must appear on the Home Health Certification and Plan of Treatment forms.

d. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.

e. The physician orders for durable medical equipment and supplies shall include the specific item identification including all modifications, the number of supplies needed monthly, and an estimate

of how long the recipient will require the use of the equipment or supplies. All durable medical equipment or supplies requested must be directly related to the physician's plan of care and to the patient's condition.

f. A written physician's statement located in the medical record must certify that:

(1) The home health services are required because the individual is confined to his or her home (except when receiving outpatient services);

(2) The patient needs licensed nursing care, home health aide services, physical or occupational therapy, speech-language pathology services, or durable medical equipment and/or supplies;

(3) A plan for furnishing such services to the individual has been established and is periodically reviewed by a physician; and

(4) These services were furnished while the individual was under the care of a physician.

g. The plan of care shall contain at least the following information:

(1) Diagnosis and prognosis,

(2) Functional limitations,

(3) Orders for nursing or other therapeutic services,

(4) Orders for medical supplies and equipment, when applicable

(5) Orders for home health aide services, when applicable,

(6) Orders for medications and treatments, when applicable,

(7) Orders for special dietary or nutritional needs, when applicable, and

(8) Orders for medical tests, when applicable, including laboratory tests and x-rays

6. Utilization review shall be performed by DMAS to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in patients' medical records as having been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.

7. All services furnished by a home health agency, whether provided directly by the agency or under arrangements with others, must be performed by

appropriately qualified personnel. The following criteria shall apply to the provision of home health services:

a. Nursing services. Nursing services 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. Home health aide services. Home health aides must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aide services may include assisting with personal hygiene, meal preparation and feeding, walking, and taking and recording blood pressure, pulse, and respiration. Home health aide services must be provided under the general supervision of a registered nurse. A recipient may not receive duplicative home health aide and personal care aide services.

c. Rehabilitation services. Services shall be specific and provide effective treatment for patients' conditions in accordance with accepted standards of medical practice. The amount, frequency, and duration of the services shall be reasonable. Rehabilitative services shall be provided with the expectation, based on the assessment made by physicians of patients' rehabilitation potential, that the condition of patients will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with the specific diagnosis.

(1) Physical therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and is under the direct supervision of a physical therapist licensed by the Board of Medicine. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

(2) Occupational therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board. The services shall be of a level of complexity and sophistication, or the condition of

the patient shall be of a nature that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant, such services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

(3) Speech-language pathology services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology.

d. Durable medical equipment and supplies. Durable medical equipment, supplies, or appliances must be ordered by the physician, be related to the needs of the patient, and included on the plan of care. Treatment supplies used for treatment during the visit are included in the visit rate. Treatment supplies left in the home to maintain treatment after the visits shall be charged separately.

e. A visit shall be defined as the duration of time that a nurse, home health aide, or rehabilitation therapist is with a client to provide services prescribed by a physician and that are covered home health services. Visits shall not be defined in measurements or increments of time.

F. G. Optometrists' services are limited to examinations (refractions) after preauthorization by the state agency except for eyeglasses as a result of an Early and Periodic Screening, Diagnosis, and Treatment (EPSDT).

G. H. In the broad category of Special Services which includes nonemergency transportation, all such services for recipients will require preauthorization by a local health department.

H. I. Standards in other specialized high quality programs such as the program of Crippled Children's Services will be incorporated as appropriate.

I. J. Provisions will be made for obtaining recommended medical care and services regardless of geographic boundaries.

Final Regulations

* * *

PART I.

INTENSIVE PHYSICAL REHABILITATIVE SERVICES.

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

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

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

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

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

1. Occupational Therapy
2. Physical Therapy
3. Cognitive Rehabilitation
4. Speech-Language Therapy

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

PART II.

INPATIENT ADMISSION AUTHORIZATION.

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

PART III.

DOCUMENTATION REQUIREMENTS.

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

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

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

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

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

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

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

G. Describe responses to and the outcome of treatment; and

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

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

PART IV.

INPATIENT REHABILITATION EVALUATION.

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

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

§ 4.3. Admissions for evaluation and/or training for solely vocational or educational purposes or for developmental or

behavioral assessments are not covered services.

PART V. CONTINUING EVALUATION.

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

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

§ 5.3. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.

PART VI. THERAPEUTIC FURLOUGH DAYS.

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

PART VII. DISCHARGE PLANNING.

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

PART VIII. REHABILITATION SERVICES TO PATIENTS.

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

required for independent functioning. The rules pertaining to them are:

A. Rehabilitative nursing.

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

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

1. The services shall be directly and specifically related to an active written treatment plan approved by a physician after any needed consultation with a registered nurse who is experienced in rehabilitation;
2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a registered nurse or licensed professional nurse, nursing assistant, or rehabilitation technician under the direct supervision of a registered nurse who is experienced in rehabilitation;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.

B. Physical therapy.

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

1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine;
2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a qualified physical therapist licensed by the Board of Medicine;

Final Regulations

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

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

C. Occupational therapy.

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

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

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

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

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

D. Speech-language therapy.

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

1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a

speech-language pathologist licensed by the Board of Audiology and ~~Speech~~ *Speech-Language Pathology*;

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

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

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

E. Cognitive rehabilitation.

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

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

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

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

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

5. The services include activities to improve a variety

of cognitive functions such as orientation, attention/concentration, reasoning, memory, discrimination and behavior; and

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

F. Psychology.

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

1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;
2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified psychologist as required by state law;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

G. Social work.

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

1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;
2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified social worker as required by state law;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be

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

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

H. Recreational therapy.

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

1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;
2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services are performed as an integrated part of a comprehensive rehabilitation plan of care by a recreation therapist certified with the National Council for Therapeutic Recreation at the professional level;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

I. Prosthetic/orthotic services.

1. Prosthetic services furnished to a patient include prosthetic devices that replace all or part of an external body member, and services necessary to design the device, including measuring, fitting, and instructing the patient in its use;
2. Orthotic device services furnished to a patient include orthotic devices that support or align extremities to prevent or correct deformities, or to improve functioning, and services necessary to design the device, including measuring, fitting and instructing the patient in its use; and
3. Maxillofacial prosthetic and related dental services are those services that are specifically related to the improvement of oral function not to include routine oral and dental care.

Final Regulations

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

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

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

J. Durable medical equipment.

1. Durable medical equipment furnished the patient receiving approved covered rehabilitation services is covered when the equipment is necessary to carry out an approved plan of rehabilitation. A rehabilitation hospital or a rehabilitation unit of a hospital enrolled with Medicaid under a separate provider agreement for rehabilitative services may supply the durable medical equipment. The provision of the equipment is to be billed as an outpatient service. Medically necessary medical supplies, equipment and appliances shall be covered. Unusual amounts, types, and duration of usage must be authorized by DMAS in accordance with published policies and procedures. When determined to be cost-effective by DMAS, payment may be made for rental of the equipment in lieu of purchase. Payment shall not be made for additional equipment or supplies unless the extended provision of services has been authorized by DMAS. All durable medical equipment is subject to justification of need. Durable medical equipment normally supplied by the hospital for inpatient care is not covered by this provision.

2. Supplies, equipment, or appliances that are not covered for recipients of intensive physical rehabilitative services include, but are not limited to, the following:

a. Space conditioning equipment, such as room humidifiers, air cleaners, and air conditioners;

b. Durable medical equipment and supplies for any hospital or nursing facility resident, except ventilators and associated supplies for nursing facility residents that have been approved by DMAS central office;

c. Furniture or appliance not defined as medical

equipment (such as blenders, bedside tables, mattresses other than for a hospital bed, pillows, blankets or other bedding, special reading lamps, chairs with special lift seats, hand-held shower devices, exercise bicycles, and bathroom scales);

d. Items that are only for the recipient's comfort and convenience or for the convenience of those caring for the recipient (e.g., a hospital bed or mattress because the recipient does not have a decent bed; wheelchair trays used as a desk surface; mobility items used in addition to primary assistive mobility aide for caregiver's or recipient's convenience, for example, an electric wheelchair plus a manual chair; cleansing wipes);

e. Items and services which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member (for example, over-the-counter drugs; dentifrices; toilet articles; shampoos which do not require a physician's prescription; dental adhesives; electric toothbrushes; cosmetic items, soaps, and lotions which do not require a physician's prescription; sugar and salt substitutes; support stockings; and non-legend drugs);

f. Home or vehicle modifications;

g. Items not suitable for or used primarily in the home setting (i.e., but not limited to, car seats, equipment to be used while at school);

h. Equipment that the primary function is vocationally or educationally related (i.e., but not limited to, computers, environmental control devices, speech devices) environmental control devices, speech devices).

PART IX. HOSPICE SERVICES.

§ 9.1. Admission criteria.

To be eligible for hospice coverage under Medicare or Medicaid, the and elect to receive hospice services rather than active treatment for the illness. Both the attending physician (if the individual has an attending physician) and the hospice medical director must certify the life expectancy.

§ 9.2. Utilization review.

Authorization for hospice services requires an initial preauthorization by DMAS and physician certification of life expectancy. Utilization review will be conducted to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patients' medical records as having been rendered shall be

deemed not to have been rendered and no coverage shall be provided.

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

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

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

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

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

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

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

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

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

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

PART X COMMUNITY MENTAL HEALTH SERVICES.

§ 10.1. Utilization review general requirements.

A. On-site utilization reviews shall be conducted, at a minimum annually at each enrolled provider, by the state Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS). During each on-site review, an appropriate sample of the provider's total Medicaid population will be selected for review. An expanded review shall be conducted if an appropriate number of exceptions or problems are identified.

B. The DMHMRSAS review shall include the following items:

1. Medical or clinical necessity of the delivered service;
2. The admission to service and level of care was appropriate;
3. The services were provided by appropriately qualified individuals as defined in the Amount, Duration, and Scope of Services found in Attachment 3.1 A and B, Supplement 1 § 13d Rehabilitative Services; and
4. Delivered services as documented are consistent with recipients' Individual Service Plans, invoices submitted, and specified service limitations.

§ 10.2. Mental health services utilization criteria.

Final Regulations

Utilization reviews shall include determinations that providers meet all the requirements of Virginia state regulations found at VR 460-03-3.1100.

A. Intensive in-home services for children and adolescents.

1. At admission, an appropriate assessment is made and documented that service needs can best be met through intervention provided typically but not solely in the client's residence; service shall be recommended in the Individual Service Plan (ISP) which shall be fully completed within 30 days of initiation of services.
2. Services shall be delivered primarily in the family's residence. Some services may be delivered while accompanying family members to community agencies or in other locations.
3. Services shall be used when out-of-home placement is a risk and when services that are far more intensive than outpatient clinic care are required to stabilize the family situation, and when the client's residence as the setting for services is more likely to be successful than a clinic.
4. Services are not appropriate for a family in which a child has run away or a family for which the goal is to keep the family together only until an out-of-home placement can be arranged.
5. Services shall also be used to facilitate the transition to home from an out-of-home placement when services more intensive than outpatient clinic care are required for the transition to be successful.
6. At least one parent or responsible adult with whom the child is living must be willing to participate in in-home services, with the goal of keeping the child with the family.
7. The provider of intensive in-home services for children and adolescents shall be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.
8. The billing unit for intensive in-home service is one hour. Although the pattern of service delivery may vary, in-home service is an intensive service provided to individuals for whom there is a plan of care in effect which demonstrates the need for a minimum of five hours a week of intensive in-home service, and includes a plan for service provision of a minimum of five hours of service delivery per client/family per week in the initial phase of treatment. It is expected that the pattern of service provision may show more intensive services and more frequent contact with the client and family initially with a lessening or tapering off of intensity toward the latter weeks of service. Intensive in-home services below the five-hour a week

minimum may be covered. However, variations in this pattern must be consistent with the individual service plan. Service plans must incorporate a discharge plan which identifies transition from intensive in-home to less intensive or nonhome based services.

9. The intensity of service dictates that caseload sizes should be six or fewer cases at any given time. If on review caseloads exceed this limit, the provider will be required to submit a corrective action plan designed to reduce caseload size to the required limit unless the provider can demonstrate that enough of the cases in the caseload are moving toward discharge so that the caseload standard will be met within three months by attrition. Failure to maintain required caseload sizes in two or more review periods may result in termination of the provider agreement unless the provider demonstrates the ability to attain and maintain the required caseload size.

10. Emergency assistance shall be available 24 hours per day, seven days a week.

B. Therapeutic day treatment for children and adolescents.

1. Therapeutic day treatment is appropriate for children and adolescents who meet the DMHMRSAS definitions of "serious emotional disturbance" or "at risk of developing serious emotional disturbance" and who also meet one of the following:

a. Children and adolescents who require year-round treatment in order to sustain behavioral or emotional gains.

b. Children and adolescents whose behavior and emotional problems are so severe they cannot be handled in self-contained or resource emotionally disturbed (ED) classrooms without:

(1) This programming during the school day; or

(2) This programming to supplement the school day or school year.

c. Children and adolescents who would otherwise be placed on homebound instruction because of severe emotional/behavior problems that interfere with learning.

d. Children and adolescents who have deficits in social skills, peer relations, dealing with authority; are hyperactive; have poor impulse control; are extremely depressed or marginally connected with reality.

e. Children in preschool enrichment and early intervention programs when the children's emotional/behavioral problems are so severe that they cannot function in these programs without

additional services.

2. The provider of therapeutic day treatment for child and adolescent services shall be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

3. The minimum staff-to-youth ratio shall ensure that adequate staff is available to meet the needs of the youth identified on the ISP.

4. The program shall operate a minimum of two hours per day and may offer flexible program hours (i.e. before or after school or during the summer). One unit of service is defined as a minimum of two hours but less than three hours in a given day. Two units of service are defined as a minimum of three but less than five hours in a given day; and three units of service equals five or more hours of service. Transportation time to and from the program site may be included as part of the reimbursable unit. However, transportation time exceeding 25% of the total daily time spent in the service for each individual shall not be billable. These restrictions apply only to transportation to and from the program site. Other program-related transportation may be included in the program day as indicated by scheduled activities.

5. Time for academic instruction when no treatment activity is going on cannot be included in the billing unit.

6. Services shall be provided following a diagnostic assessment when authorized by the physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker or certified psychiatric nurse and in accordance with an ISP which shall be fully completed within 30 days of initiation of the service.

C. Day treatment/partial hospitalization services shall be provided to adults with serious mental illness following diagnostic assessment when authorized by the physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or certified psychiatric nurse, and in accordance with an ISP which shall be fully completed within 30 days of service initiation.

1. The provider of day treatment/partial hospitalization shall be licensed by DMHMRSAS.

2. The program shall operate a minimum of two continuous hours in a 24-hour period. One unit of service shall be defined as a minimum of two but less than four hours on a given day. Two units of service shall be defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day. Transportation time to and from the program site may be included as part of the reimbursable unit. However,

transportation time exceeding 25% of the total daily time spent in the service for each individual shall not be covered. These restrictions shall apply only to transportation to and from the program site. Other program-related transportation may be included in the program day as indicated by scheduled program activities.

3. Individuals shall be discharged from this service when they are no longer in an acute psychiatric state or when other less intensive services may achieve stabilization. Admission and services longer than 90 calendar days must be authorized based upon a face-to-face evaluation by a physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or certified psychiatric nurse.

D. Psychosocial rehabilitation services shall be provided to those individuals who have mental illness or mental retardation, and who have experienced long-term or repeated psychiatric hospitalization, or who lack daily living skills and interpersonal skills, or whose support system is limited or nonexistent, or who are unable to function in the community without intensive intervention or when long-term care is needed to maintain the individual in the community.

1. Services shall be provided following an assessment which clearly documents the need for services and in accordance with an ISP which shall be fully completed within 30 days of service initiation.

2. The provider of psychosocial rehabilitation shall be licensed by DMHMRSAS.

3. The program shall operate a minimum of two continuous hours in a 24-hour period. One unit of service is defined as a minimum of two but less than four hours on a given day. Two units are defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day. Transportation time to and from the program site may be included as part of the reimbursement unit. However, transportation time exceeding 25% of the total daily time spent in the service for each individual shall not be covered. These restrictions apply only to transportation to and from the program site. Other program-related transportation may be included in the program day as indicated by scheduled program activities.

4. Time allocated for field trips may be used to calculate time and units if the goal is to provide training in an integrated setting, and to increase the client's understanding or ability to access community resources.

E. Admission to crisis intervention services is indicated following a marked reduction in the individual's psychiatric, adaptive or behavioral functioning or an extreme increase in personal distress. Crisis intervention

Final Regulations

may be the initial contact with a client.

1. The provider of crisis intervention services shall be licensed as an Outpatient Program by DMHMRSAS.
2. Client-related activities provided in association with a face-to-face contact are reimbursable.
3. An Individual Service Plan (ISP) shall not be required for newly admitted individuals to receive this service. Inclusion of crisis intervention as a service on the ISP shall not be required for the service to be provided on an emergency basis.
4. For individuals receiving scheduled, short-term counseling as part of the crisis intervention service, an ISP must be developed or revised to reflect the short-term counseling goals by the fourth face-to-face contact.
5. Reimbursement shall be provided for short-term crisis counseling contacts occurring within a 30-day period from the time of the first face-to-face crisis contact. Other than the annual service limits, there are no restrictions (regarding number of contacts or a given time period to be covered) for reimbursement for unscheduled crisis contacts.
6. Crisis intervention services may be provided to eligible individuals outside of the clinic and billed, provided the provision of out-of-clinic services is clinically/programmatically appropriate. When travel is required to provide out-of-clinic services, such time is reimbursable. Crisis intervention may involve the family or significant others.

F. Case management.

1. Reimbursement shall be provided only for "active" case management clients, as defined. An active client for case management shall mean an individual for whom there is a plan of care in effect which requires regular direct or client-related contacts or activity or communication with the client or families, significant others, service providers, and others including a minimum of one face-to-face client contact within a 90-day period. Billing can be submitted only for months in which direct or client-related contacts, activity or communications occur.
2. The Medicaid eligible individual shall meet the DMHMRSAS criteria of serious mental illness, serious emotional disturbance in children and adolescents, or youth at risk of serious emotional disturbance.
3. There shall be no maximum service limits for case management services.
4. The ISP must document the need for case management and be fully completed within 30 days of initiation of the service, and the case manager shall

review the ISP every three months. The review will be due by the last day of the third month following the month in which the last review was completed. A grace period will be granted up to the last day of the fourth month following the month of the last review. When the review was completed in a grace period, the next subsequent review shall be scheduled three months from the month the review was due and not the date of actual review.

5. The ISP shall be updated at least annually.

§ 10.3. Mental retardation utilization criteria.

Utilization reviews shall include determinations that providers meet all the requirements of Virginia state regulations found at VR 460-03-3.1100.

A. Appropriate use of day health and rehabilitation services requires the following conditions shall be met:

1. The service is provided by a program with an operational focus on skills development, social learning and interaction, support, and supervision.
2. The individual shall be assessed and deficits must be found in two or more of the following areas to qualify for services:
 - a. Managing personal care needs,
 - b. Understanding verbal commands and communicating needs and wants,
 - c. Earning wages without intensive, frequent and ongoing supervision or support,
 - d. Learning new skills without planned and consistent or specialized training and applying skills learned in a training situation to other environments,
 - e. Exhibiting behavior appropriate to time, place and situation that is not threatening or harmful to the health or safety of self or others without direct supervision,
 - f. Making decisions which require informed consent,
 - g. Caring for other needs without the assistance or personnel trained to teach functional skills,
 - h. Functioning in community and integrated environments without structured, intensive and frequent assistance, supervision or support.
3. Services for the individual shall be preauthorized annually by DMHMRSAS.
4. Each individual shall have a written plan of care developed by the provider which shall be fully

complete within 30 days of initiation of the service, with a review of the plan of care at least every 90 days with modification as appropriate. A 10-day grace period is allowable.

5. The provider shall update the plan of care at least annually.

6. The individual's record shall contain adequate documentation concerning progress or lack thereof in meeting plan of care goals.

7. The program shall operate a minimum of two continuous hours in a 24-hour period. One unit of service shall be defined as a minimum of two but less than four hours on a given day. Two units of service shall be at least four but less than seven hours on a given day. Three units of service shall be defined as seven or more hours in a given day. Transportation time to and from the program site may be included as part of the reimbursable unit. However, transportation time exceeding 25% of the total daily time spent in the service for each individual shall not be covered. These restrictions shall apply only to transportation to and from the program site. Other program-related transportation may be included in the program day as indicated by scheduled program activities.

8. The provider shall be licensed by DMHMRSAS.

B. Appropriate use of case management services for persons with mental retardation requires the following conditions to be met:

1. The individual must require case management as documented on the consumer service plan of care which is developed based on appropriate assessment and supporting data. Authorization for case management services shall be obtained from DMHMRSAS Care Coordination Unit annually.

2. An active client shall be defined as an individual for whom there is a plan of care in effect which requires regular direct or client-related contacts or communication or activity with the client, family, service providers, significant others and other entities including a minimum of one face-to-face contact within a 90-day period.

3. The plan of care shall address the individual's needs in all life areas with consideration of the individual's age, primary disability, level of functioning and other relevant factors.

a. The plan of care shall be reviewed by the case manager every three months to ensure the identified needs are met and the required services are provided. The review will be due by the last day of the third month following the month in which the last review was completed. A grace period will be

given up to the last day of the fourth month following the month of the prior review. When the review was completed in a grace period, the next subsequent review shall be scheduled three months from the month the review was due and not the date of the actual review.

b. The need for case management services shall be assessed and justified through the development of an annual consumer service plan.

4. The individual's record shall contain adequate documentation concerning progress or lack thereof in meeting the consumer service plan goals.

PART XI. GENERAL OUTPATIENT PHYSICAL REHABILITATION SERVICES.

§ 11.1. Scope.

A. Medicaid covers general outpatient physical rehabilitative services provided in outpatient settings of acute and rehabilitation hospitals and by rehabilitation agencies which have a provider agreement with the Department of Medical Assistance Services (DMAS).

B. Outpatient rehabilitative services shall be prescribed by a physician and be part of a written plan of care.

§ 11.2. Covered outpatient rehabilitative services.

Covered outpatient rehabilitative services shall include physical therapy, occupational therapy, and speech-language pathology services. Any one of these services may be offered as the sole rehabilitative service and shall not be contingent upon the provision of another service.

§ 11.3. Eligibility criteria for outpatient rehabilitative services.

To be eligible for general outpatient rehabilitative services, the patient must require at least one of the following services: physical therapy, occupational therapy, speech-language pathology services, and respiratory therapy. All rehabilitative services must be prescribed by a physician.

§ 11.4. Criteria for the provision of outpatient rehabilitative services.

All practitioners and providers of services shall be required to meet state and federal licensing and/or certification requirements.

A. Physical therapy services meeting all of the following conditions shall be furnished to patients:

1. Physical therapy services shall be directly and specifically related to an active written care plan

Final Regulations

designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine.

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and is under the direct supervision of a physical therapist licensed by the Board of Medicine. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

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

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

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

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board, a graduate of a program approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association when under the supervision of an occupational therapist defined above, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant or a graduate engaged in supplemental clinical experience required before registration, such services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

3. The services shall be specific and provide effective treatment for the patient's condition in accordance

with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

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

1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and ~~Speech~~ *Speech-Language Pathology*, or, if exempted from licensure by statute, meeting the requirements in 42 CFR 440.110(c);

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by or under the direction of a speech-language pathologist who meets the qualifications in subdivision B1 above. The program must meet the requirements of 42 CFR 405.1719(c). At least one qualified speech-language pathologist must be present at all times when speech-language pathology services are rendered; and

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

§ 11.5. Authorization for services.

A. General physical rehabilitative services provided in outpatient settings of acute and rehabilitation hospitals and by rehabilitation agencies shall include authorization for up to 24 visits by each ordered rehabilitative service within a 60-day period. A recipient may receive a maximum of 48 visits annually without authorization. The provider shall maintain documentation to justify the need for services. A visit shall be defined as the duration of time that a rehabilitative therapist is with a client to provide services prescribed by the physician. Visits shall not be defined in measurements or increments of time.

B. The provider shall request from DMAS authorization for treatments deemed necessary by a physician beyond the number authorized by using the Rehabilitation Treatment Authorization form (DMAS-125). This request must be signed and dated by a physician. Authorization for extended services shall be based on individual need. Payment shall not be made for additional service unless the extended provision of services has been authorized by DMAS. Periods of care beyond those allowed which have not been authorized by DMAS shall not be approved for payment.

§ 11.6. Documentation requirements.

A. Documentation of general outpatient rehabilitative services provided by a hospital-based outpatient setting or a rehabilitation agency shall, at a minimum:

1. describe the clinical signs and symptoms of the patient's condition;
2. include an accurate and complete chronological picture of the patient's clinical course and treatments;
3. document that a plan of care specifically designed for the patient has been developed based upon a comprehensive assessment of the patient's needs;
4. include a copy of the physician's orders and plan of care;
5. include all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response, and identify who provided care (include full name and title);
6. describe changes in each patient's condition and response to the rehabilitative treatment plan; and
7. describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination.

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

§ 11.7. Service limitations.

The following general conditions shall apply to reimbursable physical rehabilitative services:

A. Patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license.

B. Services shall be furnished under a written plan of treatment and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of treatment and must be related to the patient's condition.

C. A physician recertification shall be required periodically, must be signed and dated by the physician who reviews the plan of treatment, and may be obtained when the plan of treatment is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed.

D. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of

care, and indicate the frequency and duration for services.

E. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

F. Rehabilitation care is to be terminated regardless of the approved length of stay when further progress toward the established rehabilitation goal is unlikely or when the services can be provided.

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

§ 1. General.

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. 1. 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. 2. 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. 3. 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.

§ 2. Services which are reimbursed on a cost basis.

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

Final Regulations

component for emergency room physicians shall continue to be uncovered as a component of the payment to the facility.

A. 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.

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

C. 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. Outpatient hospital services excluding laboratory

a. Definitions. The following words and terms, when used in this regulation, shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"All-inclusive" means all emergency room and ancillary service charges claimed in association with the emergency room visit, with the exception of laboratory services.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§

32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

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

"Recent injury" means an injury which has occurred less than 72 hours prior to the emergency room visit.

b. Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency rooms and reimburse for nonemergency care rendered in emergency rooms at a reduced rate.

(1) With the exception of laboratory services, DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all services, including those obstetric and pediatric procedures contained in Supplement 1 to Attachment 4.19 B, rendered in emergency rooms which DMAS determines were nonemergency care.

(2) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(3) Services performed by the attending physician which may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology for (2) above. Services not meeting certain criteria shall be paid under the methodology of (1) above. Such criteria shall include, but not be limited to:

(a) The initial treatment following a recent obvious injury.

(b) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(c) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(d) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(e) Services provided for acute vital sign changes as specified in the provider manual.

(f) Services provided for severe pain when combined with one or more of the other guidelines.

(4) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(5) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

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.

4. Rehabilitation agencies

5. Comprehensive outpatient rehabilitation facilities

6. Rehabilitation hospital outpatient services.

e. § 3. Fee-for-service providers.

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

(a) 1. Physicians' services (Supplement 1 has obstetric/pediatric fees.) The following limitations shall apply to emergency physician services.

a. Definitions. The following words and terms, when used in this regulation, shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"All-inclusive" means all emergency service and ancillary service charges claimed in association with the emergency room visit, with the exception of laboratory services.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

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

"Recent injury" means an injury which has occurred less than 72 hours prior to the emergency room

visit.

b. Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency rooms and reimburse physicians for nonemergency care rendered in emergency rooms at a reduced rate.

(†) (1) DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all physician services, including those obstetric and pediatric procedures contained in Supplement 1 to Attachment 4.19 B, rendered in emergency rooms which DMAS determines are nonemergency care.

(†) (2) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(†) (3) Services determined by the attending physician which may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology for (†) (2) above. Services not meeting certain criteria shall be paid under the methodology of (†) (1) above. Such criteria shall include, but not be limited to:

(a) The initial treatment following a recent obvious injury.

(b) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(c) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(d) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(e) Services provided for acute vital sign changes as specified in the provider manual.

(f) Services provided for severe pain when combined with one or more of the other guidelines.

(†) (4) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(†) (5) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians,

Final Regulations

and hospitals. Program components may be revised subject to achieving program intent objectives, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

~~(b)~~ 2. Dentists' services

~~(c)~~ 3. Mental health services including:

Community mental health services

Services of a licensed clinical psychologist

Mental health services provided by a physician

~~(d)~~ 4. Podiatry

~~(e)~~ 5. Nurse-midwife services

~~(f)~~ 6. Durable medical equipment

~~(g)~~ 7. Local health services

~~(h)~~ 8. Laboratory services (Other than inpatient hospital)

~~(i)~~ 9. Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling)

~~(j)~~ 10. X-Ray services

~~(k)~~ 11. Optometry services

~~(l)~~ 12. Medical supplies and equipment.

~~(m)~~ 13. 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 by Supplement 3.

~~(2)~~ B. 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. C. Payment for pharmacy services shall be the lowest of items ~~(1)~~ 1 through ~~(5)~~ 5 (except that items ~~(1)~~ 1 and ~~(2)~~ 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)~~ 6 and ~~(7)~~ 7 below:

~~(1)~~ 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)~~ 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)~~ 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)~~ a through ~~(c)~~ 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)~~ a. Percent discount shall be determined by a statewide survey of providers' acquisition cost.

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

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

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

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

~~(6)~~ 6. Payment for pharmacy services will be as described above; however, payment for legend drugs will include the allowed cost of the drug plus only one dispensing fee per month for each specific drug. However, oral contraceptives shall not be subject to the one month dispensing rule. Exceptions to the monthly dispensing fees shall be allowed for drugs determined by the department to have unique dispensing requirements.

~~(7)~~ 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 source drugs will be the lesser of: either the VMAC based on the 60th percentile cost level identified by the state agency or HCFA's upper limits. All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency.

~~(8)~~ 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. D. 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. E. 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. F. 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. G. 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. See Supplement 2 of this methodology.

k. H. 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. I. 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. J. Targeted case management for high-risk pregnant women and infants up to age two and for community mental health and mental retardation services shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

n. § 4. Reimbursement for all other nonenrolled institutional and noninstitutional providers.

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

(3) C. 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) D. 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 12 months shall be declared inactive.

(5) E. 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. § 5. Refund of overpayments.

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

Final Regulations

(a) 1. 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) 2. 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.

3. 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.

4. 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.

5. 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.

6. 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) 7. 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) 8. 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.

9. 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.

10. 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.

B. Providers reimbursed on the basis of reasonable costs.

1. 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 disputed in whole or in part DMAS's determination of the overpayment.

2. 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, an underpayment discovered by subsequent review or audit shall also be used to reduce the remaining amount of the overpayment.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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 fact finding 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.

§ 6. EPSDT.

[A.] Consistent with the Omnibus Budget Reconciliation Act of 1989 § 6403, reimbursement shall be provided for services resulting from early and periodic

screening, diagnostic, and treatment services. Reimbursement shall be provided for such other measures described in Social Security Act § 1905(a) required to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State Plan.

[~~A. B.~~] Payments to fee-for-service providers shall be in accordance with § 3 of Attachment 4.19B the lower of (i) state agency fee schedule or (ii) actual charge (charge to the general public).

[~~B. C.~~] Payments to outpatient cost-based providers shall be in accordance with § 2 in 4.19B.

[~~C. D.~~] Psychiatric services delivered in a psychiatric hospital for individuals under age 21 shall be reimbursed at a uniform all-inclusive per diem fee and shall apply to all service providers. The fee shall be all-inclusive to include physician and pharmacy services. The methodology to be used to determine the per diem fee shall be as follows. The base period uniform per diem fee for psychiatric services resulting from an EPSDT screening shall be the median (weighted by children's admissions in state-operated psychiatric hospitals) variable per day cost of state-operated psychiatric hospitals in the fiscal year ending June 30, 1990. The base period per diem fee shall be updated each year using the hospital market basket factor utilized in the reimbursement of acute care hospitals in the Commonwealth.

~~§ 7.~~ Dispute resolution for state-operated providers.

~~(1)~~ A. Definitions.

~~(a)~~ "DMAS" means the Department of Medical Assistance Services.

~~(b)~~ "Division director" means the director of a division of DMAS.

~~(c)~~ "State-operated provider" means a provider of Medicaid services which is enrolled in the Medicaid program and operated by the Commonwealth of Virginia.

~~(2)~~ B. Right to request reconsideration.

~~(a)~~ A state-operated provider shall have the right to request a reconsideration for any issue which would be otherwise administratively appealable under the State Plan by a nonstate operated provider. This shall be the sole procedure available to state-operated providers.

~~(b)~~ The appropriate DMAS division must receive the reconsideration request within 30 calendar days after the provider receives its Notice of Amount of Program Reimbursement, notice of proposed action, findings letter, or other DMAS notice giving rise to a dispute.

~~(3)~~ C. Informal review.

Final Regulations

The state-operated provider shall submit to the appropriate DMAS division written information specifying the nature of the dispute and the relief sought. If a reimbursement adjustment is sought, the written information must include the nature of the adjustment sought, the amount of the adjustment sought, and the reasons for seeking the adjustment. The division director or his designee shall review this information, requesting additional information as necessary. If either party so requests, they may meet to discuss a resolution. Any designee shall then recommend to the division director whether relief is appropriate in accordance with applicable law and regulations.

(4) *D. Division director action.*

The division director shall consider any recommendation of his designee and shall render a decision.

(5) *E. DMAS director review.*

A state-operated provider may, within 30 days after receiving the informal review decision of the division director, request that the DMAS director or his designee review the decision of the division director. The DMAS director shall have the authority to take whatever measures he deems appropriate to resolve the dispute.

(6) *F. Secretarial review.*

If the preceding steps do not resolve the dispute to the satisfaction of the state-operated provider, within 30 days after the receipt of the decision of the DMAS director, the provider may request the DMAS director to refer the matter to the Secretary of Health and Human Resources and any other Cabinet Secretary as appropriate. Any determination by such Secretary or Secretaries shall be final.

BOARD OF MEDICINE

REGISTRAR'S NOTICE: The following regulation is exempt from the Administrative Process Act pursuant to subdivision A 18 of § 9-6.14:4.1 of the Code of Virginia, which excludes from this Act the Board of Medicine when specifying therapeutic pharmaceutical agents for the treatment of certain conditions of the human eye and its adnexa by certified optometrists pursuant to § 54.1-2957.2.

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 and 54.1-2957.2 of the Code of Virginia.

Effective Date: May 17, 1993.

Summary:

The amendment adds Neomycin as a therapeutic agent to the Optometric Formulary as established in § 54.1-2957.2 of the Code of Virginia. The addition to the formulary is consistent with appropriate standards of care concerning antibiotic and antibacterial intervention for the eye and its adnexa.

The amendment responds to a continuing review of the regulations for the certification of optometrists to prescribe and treat certain diseases or abnormal conditions of the eye with therapeutic pharmaceutical agents.

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 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;
 - c. 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 one part.

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:

1. Hordeolum, conjunctivitis, blepharitis, chalazion, and dry eye.
2. Superficial foreign bodies of the eye and its adnexa which can be treated by noninvasive modalities.
3. 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

Final Regulations

2. Erythromycin
3. Bacitracin
4. Polymyxin B/Bacitracin
5. Chlortetracycline
6. Sodium Sulfacetamide - 10%
7. Sodium Sulfacetamide - 30%
8. Sulfisoxazole - 4.0%
9. Sulfacetamide - 15% / Phenylephrine - 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 - 0.5%
16. Hydroxypropyl Cellulose Ophthalmic Insert
17. Polytrim Ophthalmic Solution
18. Neomycin

§ 4.4. Standards of practice.

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 list in § 4.3 does not preclude optometrists treating emergency cases of anaphylactic shock with intra-muscular epinephrine, such as obtained from a beesting kit.

D. 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.

of certification.

§ 5.2. 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 one-part comprehensive examination in accordance with § 3.1 of these regulations.

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. An applicant may, upon written request 21 days prior to the scheduled examination and payment of a \$100 fee, 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.

DEPARTMENT OF STATE POLICE

REGISTRAR'S NOTICE: The following amendments are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Department of State Police will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 545-01-02. Regulations Relating to Standards and Specifications for the Slow-Moving Vehicle Emblem.

Statutory Authority: § 46.2-1081 of the Code of Virginia.

Effective Date: July 14, 1993.

Summary:

This regulation establishes standards and specifications for slow-moving vehicle emblems consistent with the Standards of the American Society of Agricultural Engineers. The amendments to this regulation update references to the Code of Virginia, and make formatting changes to bring the regulation into conformance with the Virginia Register Form, Style and Procedure Manual.

VR 545-01-02. Regulations Relating to Standards and Specifications for the Slow-Moving Vehicle Emblem.

These standards and specifications are promulgated in compliance with Section 46.1-264.1 of the Code of Virginia.

The abbreviation ASAE, as used in these regulations, shall mean the American Society of Agricultural Engineers.

1.0. § 1. Purpose.

The purpose of this standard is to establish specifications

which define a unique identification emblem for use on slow-moving vehicles when operated or transported on public highways.

2.0. DEFINITION.

§ 2. Definitions.

"ASAE" means the American Society of Agricultural Engineers.

Slow-moving vehicles are defined as vehicles "Slow-moving vehicle" means a vehicle designed for operation at speeds not in excess of 25 miles per hour or normally operated at speeds not in excess of 25 miles per hour.

3.0. § 3. Description.

The identification emblem consists of a fluorescent yellow-orange triangle with a dark, red reflective border. The yellow-orange fluorescent triangle is for daylight identification. The reflective border defines the shape of the fluorescent color in daylight and becomes a hollow red triangle in the path of motor vehicle headlights at night.

4.0. § 4. Performance requirements : visibility; dimensional requirements; color, reflectivity, and durability.

4.1. Visibility.

The emblem shall be entirely visible in daylight and at night from all distances between 600 feet and 100 feet from the rear when directly in front of lawful upper beams of headlamps.

4.2. Dimensional Requirements.

The size of the emblem shall be as shown in Figure 1 of the ASAE S276.2 Standard.

4.3. Color, Reflectivity, and Durability.

The color, reflectivity, and durability of the emblem shall be in accordance with the provisions contained in sections §§ 5.3 and 5.4 of the ASAE S276.2 Standard.

5.0. § 5. Test procedures.

The emblem shall be tested in accordance with the provisions contained in Section § 6 of the ASAE S276.2 Standard.

6.0. § 6. Mounting.

The emblem shall be mounted point up in a plane perpendicular to the direction of travel, plus or minus 10 degrees. It shall be placed centrally at the rear of the vehicle, unobscured, and 2 to 6 feet above the ground measured from the lower edge of the emblem. It may be permanently attached to equipment when practical.

Final Regulations

7.0. § 7. Proof of compliance.

Whenever the Superintendent of State Police deems it necessary, he may require the manufacturer or distributor of a slow-moving vehicle emblem to furnish proof that the emblem or any part of the material used in its construction is in accordance with the provisions of this regulation.

8.0. EFFECTIVE DATE.

These regulations shall be effective on and after July 8, 1970, and until amended or rescinded.

9.0. ADOPTED: July 1, 1970.

* * * * *

REGISTRAR'S NOTICE: The following amendments are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Department of State Police will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 545-01-04. Regulations Relating to Standards and Specifications for Motorcycle Windshields and Safety Glasses or Goggles for Motorcycle Operators.

Statutory Authority: § 46.2-910 of the Code of Virginia.

Effective Date: July 14, 1993.

Summary:

The amendments make technical changes in the regulation. The American National Standards Institute, Inc. (ANSI) replaces references to the United States of America Standards Institute, ANSI Standard Z26.1-1966 is updated to Z26.1-1990, and ANSI Standard Z87.1-1968 is updated to Z87.1-1989. Also, format changes are being made to conform with the Virginia Register Form, Style and Procedure Manual.

VR 545-01-04. Regulations Relating to Standards and Specifications for Motorcycle Windshields and Safety Glasses or Goggles for Motorcycle Operators.

These standards and specifications are promulgated in compliance with Section 46.1-172 of the Code of Virginia as amended relating to the operation of a motorcycle. A person operating a motorcycle shall wear safety glasses or goggles or have his motorcycle equipped with safety glass or a windshield at all times while operating said vehicle.

The abbreviation USASI as used in these regulations shall mean the United States of America Standards Institute.

1.0. GOGGLES.

PART I. DEFINITIONS.

§ 1.1. ~~Definition~~ Definitions .

"Face shield" means a device worn in front of the eyes and a portion of, or all of, the face, attached to a safety helmet, and its predominant function is protection of the eyes and face against wind, flying objects, and dust.

"Goggles" means a device with contour shaped eyecups or facial contact with glass or plastic lenses, worn over the eyes and held in place by a headband or other suitable means for the protection of the eyes and eye sockets.

"Safety glasses" means a device patterned after conventional-type spectacle eyewear but of more substantial construction, either with or without sideshields, and with plano or corrective impact-resistant lenses of clear or absorptive filter glass or plastic.

"Windshield" means a device mounted on a motorcycle forward of the operator designed to deflect wind and flying objects from the face and body of the operator.

PART II. GOGGLES.

Article 1.

Types, Standards and General Requirements.

1.2. § 2.1. Basic types.

The basic types of goggles are (1) (i) cup-type goggles designed to be worn by individuals who do not wear corrective eyeglasses; (2) lenses, and (ii) cover-cup-type goggles designed to fit over corrective eyeglasses.

1.3. § 2.2. Standards - goggles.

Goggles shall be tested in accordance with the procedures described in that portion of Section § 6 of the USASI ANSI Specifications for Occupational and Educational Eye and Face Protection ~~Z87.1-1968~~ Z87.1-1989 Standard applicable to cup-type and cover-cup-type goggles as indicated herein in § 2.1 .

1.4. § 2.3. General requirements.

Eyecup goggles shall consist of two eyecups, with lenses and lens retainers, connected by an adjustable bridge, and a replaceable and adjustable headband or other means for retaining the eyecups comfortably in front of the eyes.

Article 2.

1.5. Detailed Requirements.

1.5.1. § 2.4. Eyecup material.

Eyecups shall be made from a plastic or other material of such composition as to withstand the heat deformation test outlined in subsection 6.1.1.5 of the USASI Z87.1-1968 ANSI Z87.1-1989 Standard and the disinfection, water absorption, and flammability tests in Section § 6.2 of this USASI ANSI Standard. Cellulose nitrate, or materials having flammability characteristics approximating those of cellulose nitrate shall not be used.

1.5.2. § 2.5. Vision and fit.

(1) A. For cup-type goggles, eyecups shall be right and left in pairs and shall permit an effective angle of vision not less than 105 degrees, assuming that the pupil of the eye is located 17 millimeters behind the inner surface of the lens. The edge of the eyecup which bears against the face shall have a smooth surface free from roughness or irregularities which might exert undue pressure or cause discomfort to the wearer. The eyecup shall be of such size and shape as to protect completely the entire eye sockets.

(2) B. For cover-cup-type goggles, eyecups shall be right and left in pairs and shall permit an effective angle of vision not less than 90 degrees. The goggles shall be designed to provide ample clearance and will not interfere with the eyeglasses of the wearer. The edges of the goggles which bear against the face shall have a smooth surface free from roughness or irregularities which might exert undue pressure or cause discomfort to the wearer.

1.5.3. § 2.6. Ventilation.

Eyecups shall be ventilated in a manner to permit circulation of air as described for either the Chipper's Models or the Dust and Splash Models as outlined in subsection 6.1.1.4.3 of the USASI Z87.1-1968 ANSI Z87.1-1989 Standard.

1.5.4. § 2.7. Lens-retaining ring.

Each eyecup shall be provided with a rigidly constructed lens-retaining ring of metal or plastic designed to accommodate lenses and to permit their ready removal and replacement without damage to the eyecup or to the lenses and without the use of tools. The ring shall provide a complete clamping action against the lens.

1.5.5. § 2.8. Lens seat.

Each eyecup shall have a lens seat sufficiently wide to support the lens and to resist the falling inward of the broken lens when the lens is subjected to the impact test as specified in Section § 6.1.1.4.6 of the USASI Z87.1-1968 ANSI Z87.1-1989 Standard.

2.0. SAFETY GLASSES.

2.1. Definition.

A device patterned after conventional-type spectacles

eyewear but of more substantial construction, either with or without sideshields, and with plane or corrective impact-resistant lenses of clear or absorptive filter glass or plastic.

PART III. SAFETY GLASSES.

2.2. § 3.1. Description.

Safety glasses require special frames. Therefore, combinations of streetwear frames with safety lenses meeting this standard are definitely not in compliance. Safety glasses shall consist of two lenses in a frame which supports the lenses around their entire periphery, of suitable size and shape for the purpose intended, connected by a nose bridge, and retained on the face by temples or other suitable means. The safety glasses may be furnished with or without sideshields. The frames, temples, and sideshields can be of metal or plastic construction and when made of plastic shall be of the slow-burning type.

2.3. § 3.2. Protection.

Safety glasses shall provide frontal protection to the eyes from flying objects.

2.4. § 3.3. Temples.

Temples may be of the cable or spatula type and shall be of such design as to permit adjustment and fit comfortably and securely on the wearer. The size of the temples shall be clearly marked.

2.5. § 3.4. Detailed requirements.

The frames shall be either:

(a) 1. Type I - Metal Frame

(1) a. Style A - Without Sideshields

(2) b. Style B - With Sideshields

(b) 2. Type II - Plastic Frame

(1) a. Style A - Without Sideshields

(2) b. Style B - With Sideshields

(c) 3. Type III - Combination Metal and Plastic Frames

(1) a. Style A - Without Sideshields

(2) b. Style B - With Sideshields

These frames shall be constructed in keeping with the provisions contained in Section § 6.1.2.2 of the USASI Z87.1-1968 ANSI Z87.1-1989 Standard for Safety Spectacles.

Final Regulations

2.5.1. § 3.5. Materials and methods of tests.

2.5.1.1. General.

In addition to the specific requirements outlined in Section § 6.1.2.4 of the ~~USASI Z87.1-1968~~ *ANSI Z87.1-1989* Standard, the material used shall be capable of withstanding the disinfection, corrosion-resistance, water-absorption and flammability tests outlined in Section § 6.2 of such standard.

PART IV.

3.0. LENSES (GLASS OR PLASTIC LENSES FOR USE IN EYECUP GOGGLES OR SAFETY GLASSES.)

3.1. § 4.1. Type of lenses.

The types of lenses are as follows:

- (1) 1. Clear lenses. Impact-resisting, providing protection against flying objects.
- (2) 2. Absorptive lenses (shades 1.7 through 3.0 as described in Table 1 of the ~~USASI Z87.1-1968~~ *ANSI Z87.1-1989* Standard.) Impact-resisting, providing protection against flying objects and glare.
- (3) 3. Protective-corrective lenses. Impact-resisting, either clear or absorptive, as specified for persons requiring visual correction.

3.2. § 4.2. Visual corrective lenses.

Persons whose vision requires the use of corrective lenses in eyeglasses shall use protectors of one of the following types:

- (1) 1. Safety glasses with protective lenses providing the proper optical correction and withstanding the drop test specified in Section § 6.3.4.2 of the ~~USASI Z87.1-1968~~ *ANSI Z87.1-1989* Standard. (Such lenses are exempted from the requirements for parallelism of surfaces. Minimum thickness of prescription lenses shall be 3.0 millimeters, except in the case of lenses of strong plus power, when the edge thickness may be reduced to 2.5 millimeters, provided they meet the impact test specified in Section § 6.3.4.2 of the ~~USASI Z87.1-1968~~ *ANSI Z87.1-1989* Standard.)
- (2) 2. Goggles which can be worn over corrective eyeglasses without disturbing the adjustment of the eyeglasses.

3.3. § 4.3. Requirements and tests.

The preceding described lenses described in this part shall be constructed to meet applicable provisions contained in Sections §§ 6.3.2, 6.3.3, and 6.3.4 of the ~~USASI Z87.1-1968~~ *ANSI Z87.1-1989* Standard.

PART V.

4.0. FACE SHIELDS.

4.1. § 5.1. Standard.

A face shield which meets the minimum standards and specifications as set forth in Section 4.2 and 4.3 §§ 1.1 and 5.3 of these regulations will be acceptable as complying with the requirements for safety glasses or goggles.

4.2. Definition.

A device worn in front of the eyes and a portion of, or all of, the face, attached to a safety helmet, whose predominant function is protection of the eyes and face against wind, flying objects, and dust.

4.3. § 5.2. Materials, general requirements and methods of tests.

Face shields shall be constructed of a clear or colored (shades 1.7 through 3.0 as described in Table 1 of the ~~USASI Z87.1-1968~~ *ANSI Z87.1-1989* Standard) transparent plastic material, and tested to meet the applicable provisions contained in Section § 5.2 of the ~~USASI Z87.1-1968~~ *ANSI Z87.1-1989* Standard.

PART VI.

5.0. IDENTIFICATION.

§ 6.1. Identification.

Goggles, safety glasses and face shields shall contain on the lens or frame a readily identifiable mark or number used by the manufacturer to indicate compliance with the specifications of the ~~USASI Z87.1-1968~~ *ANSI Z87.1-1989* Standard, as indicated herein and, in addition thereto, the device shall be permanently labeled with the manufacturer's name or trademark.

PART VII.

6.0. WINDSHIELD.

6.1. Definition.

A windshield is a device mounted on a motorcycle forward of the operator designed to deflect wind and flying objects from the face and body of the operator.

Article 1.

6.2. Material.

§ 7.1. Visual glazing.

The visual glazing material contained in a windshield must be ~~USASI ANSI~~ type AS1 or AS6, and shall meet the applicable provisions contained in the ~~USASI Z26.1-1966~~ *ANSI Z26.1-1990* Standard for windscreens.

6.2.1. § 7.2. Metal support.

The metal support of a windshield shall be of a material which shall not fragment under impact.

6.2.2. Covering material.

Covering material, other than visual material, shall be beaded at the edge to prevent fraying and, if cloth, shall be tested for flammability.

Article 2.

6.3. Identification.

§ 7.3. Identification.

Each windshield shall have etched on its visual material the manufacturer's name or trademark and the appropriate code identification to indicate compliance with the provisions of USASI Z26.1-1966 ANSI Z26.1-1990 Standard applicable to windscreens.

7.0. EFFECTIVE DATE AND APPROVAL.

PART VIII.

APPROVAL BY SUPERINTENDENT.

7.1. § 8.1. Goggles, safety glasses and face shields.

Effective April 1, 1969, and until amended or rescinded, No person shall sell or offer for sale any goggles, safety glasses or face shields intended for use by motorcycle operators and no motorcycle operator shall use any goggles, safety glasses or face shields unless of a type approved by the Superintendent of State Police.

7.2. § 8.2. Windshields.

Effective April 1, 1969, and until amended or rescinded, No person shall operate a motorcycle upon the highways of this state equipped with a windshield unless the windshield is of a type approved by the Superintendent of State Police in keeping with the procedures established under the provisions of Section 46.1-311 § 46.2-1005 of the Code of Virginia.

* * * * *

REGISTRAR'S NOTICE: The following amendments are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Department of State Police will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 545-01-06. Regulations Relating to Standards and Specifications for Protective Helmets for Motorcycle Operators and Passengers.

Statutory Authority: § 46.2-910 of the Code of Virginia.

Effective Date: July 14, 1993.

Summary:

This regulation establishes standards and specifications for protective helmets for motorcycle operators and passengers. The amendments to this regulation update references to the Code of Virginia and update ANSI Standard citations, and make formatting changes to bring the regulation into conformance with the Virginia Register Form, Style and Procedure Manual.

VR 545-01-06. Regulations Relating to Standards and Specifications for Protective Helmets for Motorcycle Operators and Passengers.

§ 1. Definitions.

The abbreviation ANSI, "ANSI," as used in these regulations, shall mean means the American National Standards Institute.

1.0. DEFINITIONS.

"Harness" means the complete assembly by means of which the protective helmet is maintained in position on the wearer's head.

1.1. "Protective helmet" means a device primarily intended to protect the upper part of the wearer's head against a blow. Some headgear may give protection to additional head areas.

1.2. "Shell" means the outer material that provides the general form of the headgear.

1.3. Harness

The complete assembly by means of which the protective helmet is maintained in position on the wearer's head.

2.0. § 2. Construction.

The construction of the helmet shall be essentially in the form of a shell containing the necessary means of absorbing impact energy. The assembled helmet shall have a smooth external surface and shall not have external projections except as provided in the ANSI Z90.1-1966 Z90.1-1992 Standard.

3.0. § 3. Materials.

The materials used in the manufacture of the various parts of a helmet should be of durable quality; i.e., their characteristics should not undergo appreciable alteration under the influence of aging or of the circumstances of use to which the helmet is normally subjected (exposure to sun, rain, cold, dust, vibrations, contact with the skin, effects of sweat, or of products applied to the skin or

Final Regulations

hair).

Materials commonly known to cause skin irritation or disease should not be used for those parts of the assembly which come into contact with the skin.

4-0. § 4. Extent of protection.

The extent of the area of protection shall be as marked on the standard head form in the ANSI ~~Z90.1-1966~~ Z90.1-1992 Standard with a reference plane line 2.36 in. (60 mm) above the basic plane.

All parts of the helmet above the reference plane shall attenuate shock transmission to at least the minimum requirements specified in Section § 9, Tests for helmets and Section § 10, Penetration Test, of the ANSI ~~Z90.1-1966~~ Z90.1-1992 Standard.

No part of the protective system shall be inadvertently detachable.

5-0. § 5. Testing of helmets.

The helmet shall be tested with respect to:

- A. 1. Shock absorption
- B. 2. Penetration
- C. 3. Retaining system

The tests shall be in accordance with the procedures described in Sections §§ 6, 7, 10, 11, 12, and 13 of the ANSI ~~Z90.1-1966~~ Z90.1-1992 Standard.

6-0. § 6. Identification.

The helmet shall be permanently labeled with the manufacturer's name or trademark and a readily identifiable mark or number to indicate compliance with the specifications of the ANSI ~~Z90.1-1966~~ Z90.1-1992 Standard.

7-0. EFFECTIVE DATE AND APPROVAL.

§ 7. Approval by Superintendent.

Effective July 8, 1970, and until amended or rescinded, No person shall sell or offer for sale any protective helmet intended for use by motorcycle operators or passengers and no motorcycle operator or passenger shall use any protective helmet unless of a type approved by the Superintendent of State Police.

8-0. ADOPTED: July 1, 1970.

* * * * *

REGISTRAR'S NOTICE: The following amendments are exempt from the Administrative Process Act in accordance

with § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Department of State Police will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 545-01-10. Regulations Relating to Saddle Mount Coupling for Drive-Away Service.

Statutory Authority: § 46.2-1116 of the Code of Virginia.

Effective Date: July 14, 1993.

Summary:

This regulation establishes safety regulations for the use of saddle mount couplings for drive-away service. The amendments to this regulation update references to the Code of Virginia, and make formatting changes to bring the regulation into conformance with the Virginia Register Form, Style and Procedure Manual.

VR 545-01-10. Regulations Relating to Saddle Mount Coupling for Drive-Away Service.

These regulations are promulgated in compliance with Chapter 286 of the Act of the General Assembly of Virginia 1964 relating to saddle mount coupling for drive-away service from factory to dealer.

§ 1. Definitions.

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

"King-pin" means that device which is used to connect the upper-half of a saddle mount to the lower-half of a saddle mount in such a manner as to permit relative movement in a horizontal plane between the towed and towing vehicles.

"Lower-half of a saddle mount" means that part of the device which is securely attached to the towed vehicle and maintains a fixed position relative thereto, but does not include the king-pin.

1-1 *"Saddle mount" means a coupling device, designed and constructed as to be readily demountable, used in drive-away towaway operations to perform the functions of a conventional fifth wheel.*

1-2 *"Upper-half of a saddle amount" means that part of the device which is securely attached to the towed vehicle and maintains a fixed position relative thereto, but does not include the " king-pin. "*

1-3 *"Lower-half" of a "saddle mount" means that part of the device which is securely attached to the towed vehicle and maintains a fixed position relative thereto, but does*

not include the "king-pin."

1.4 "King-pin" means that device which is used to connect the "upper-half" to the "lower-half" in such a manner as to permit relative movement in a horizontal plane between the towed and towing vehicles.

§ 2. Carrying vehicles on towed vehicles.

No motor vehicle shall be full-mounted on a motor vehicle towed by means of a saddle mount unless the center line of the king pin or equivalent means of attachment of such towed vehicle shall be so located on the towing vehicle that the relationship to the rear axle or axles results in proper distribution of the total gross weight of the vehicles and does not unduly interfere with the steering, braking, or maneuvering of the towing motor vehicle, or otherwise contribute to the unsafe operation of the vehicles comprising the combination; and unless perpendicular to the ground from the center of gravity of the full-mounted vehicles lies forward to the center line of the rear axle of the saddle-mounted vehicle.

§ 3. Front wheels of saddle mounted vehicles restrained.

A motor vehicle towed by means of a saddle mount shall have the motion of the front wheels restrained if under any condition of turning of such wheels they will project beyond the widest part of either the towed or towing vehicle.

§ 4. Vehicles to be towed in forward position.

Unless the steering mechanism is adequately locked in a straight-forward position, all motor vehicles towed by means of a saddle mount shall be towed with the front end mounted on the towing vehicle.

§ 5. Other requirements.

Motor vehicles covered by these regulations shall also be governed by all other Virginia statutes and regulations pertaining to towed vehicles.

6. ~~Effective Date:~~ These regulations shall be effective on and after June 29, 1964, and until amended or rescinded.

7. ~~ADOPTED:~~ June 29, 1964.

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-16-03. Upper James River Basin Water Quality Management Plan.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Effective Date: July 14, 1993.

Summary:

Water quality management plans set forth measures for the board to implement in order to reach and maintain applicable water quality goals in general terms and also by establishing waste load allocations for industrial and municipal dischargers in critical water quality segments. The purpose of the amendment to the Upper James River Basin Water Quality Management Plan is to increase the waste load allocation for the Town of Crewe's Sewage Treatment Plant (plant) discharge to an unnamed tributary to Deep Creek from 20 pounds per day of biological oxygen demand to 50.1 pounds per day of carbonaceous biological oxygen demand.

VR 680-16-03. Upper James River Basin Water Quality Management Plan.

Upper James Water River Basin Water Quality Management Plan
 State Water Control Board
 Text of Regulation

Reference for the Unnamed Tributary of Deep Creek, river mile 2.2 - 0.0 in Table 7, "Load Allocations Based on Existing Discharge Point" on Page 25 of Volume V-A, Part 1 of 3 would be amended as follows:

Stream Name	Segment		Mile to Mile	Significant Dischargers	Total Assimilative Capacity of Stream	Waste Load Allocation	Reserve BOD5
	Number	Classification			BOD5 Lbs/Day	BOD5 Lbs/Day	Lbs/Day
Unnamed Tributary of Deep Creek	2-22	W.Q.	2.2 - 0.0	Crewe STP	25±0 50.3 ^{11,12}	20±0 50.1 ^{11,12}	5±0 (±20%) 0.2 (0.4%) ^{11,12,13}

11. 5-day Carbonaceous Biological Oxygen Demand (cBOD5).
12. Revision supersedes all subsequent Crewe STP stream capacity, allocation, and reserve references.
13. 0.4 percent reserve: Determined by SWCB Piedmont Regional Office.

Reference to Deep Creek, river mile 25.0 - 12.8 in Table 8, "Additional Load Allocations Based on Recommended Discharge Point" on Page 26 of Volume V-A, Part 1 of 3 would be deleted as follows:

Stream Name	Segment		Mile to Mile	Significant Dischargers	Total Assimilative Capacity of Stream	Waste Load Allocation	Reserve BOD5
	Number	Classification			BOD5 Lbs/Day	BOD5 Lbs/Day	Lbs/Day
Deep-Creek	2-17	E+T±	25±0 ==== 12±0	Crewe=STP	69±0	55±0	14±0 (±20%)

Reference to the Town of Crewe in Table 11, "Recommended Water Quality Management Plan" on Page 36 of Volume V-A, Part 1 of 3 would be amended as follows:

Facility	Recommended Alternative	Waste Load Allocation (Lbs/Day BOD5)	Removal Efficiency Required	2000 Design flow MGD	Treatment Scheme	Recommended Method of Sludge Disposal
Crewe	EW-4	20 50.1 ¹¹	96±3 95.0	0±74 0.50	4 3	Land Application

11. 5-day Carbonaceous Biological Oxygen Demand (cBOD5).

CERTIFICATION:


 Richard F. Weeks, Jr.

DATE: 5-24-83

REGISTERED PROFESSIONAL ENGINEER
 LICENSE NO. 11117

EMERGENCY REGULATIONS

REAL ESTATE BOARD

GENERAL.

Title of Regulation: VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

Statutory Authority: § 54.1-2105 of the Code of Virginia.

Effective Dates: May 26, 1993, through May 25, 1994.

Preamble:

The Real Estate Board is promulgating emergency regulations as detailed in § 54.1-2105, Code of Virginia, in order to amend its current regulations relating to the requirements for real estate licensing candidates to obtain statutorily mandated pre-licensing education through completion of correspondence courses in addition to conventional course completion at Real Estate Board approved schools.

The regulations are required as a result of the amendments approved by the 1992 General Assembly to § 54.1-2105, which alters the requirements for methods of obtaining real estate pre-licensing educational requirements due to the passage of Senate Bill 260. The Board is requesting permission to promulgate these emergency regulations since the effective date of the law was July 1, 1993 and the Board has just recently developed the regulations by which this method of course completion may be accomplished.

The Board will proceed to promulgate regulations during the next year in accordance with the provisions of the Administrative Process Act to ensure the public participation in reviewing these emergency regulations. It is anticipated that new regulations would become effective approximately March 1, 1994.

APPROVED:

/s/ Bonnie S. Salzman
Secretary, Real Estate Board
Date: February 9, 1993

/s/ Cathleen A. Magennis
Secretary of Economic Development
Date: March 23, 1993

/s/ Lawrence Douglas Wilder
Governor
Date: May 11, 1993

/s/ Joan W. Smith
Registrar of Regulations
Date: May 26, 1993

VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

PART I.

§ 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:

“Actively engaged” means employment by or affiliation as an independent contractor with a licensed real estate firm or sole proprietorship in performing those activities as defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia for an average of at least 20 hours per week.

“Associate broker” means any individual licensee of the board holding a broker's license other than one who has been designated as the principal broker.

“Firm” means any partnership, association, or corporation, other than a sole proprietorship, which is required by § 2.1 B of these regulations to obtain a separate brokerage firm license.

“Inactive status” refers to any broker or salesperson who is not under the supervision of a principal broker or supervising broker, not affiliated with a firm or sole proprietorship and who is not performing any of the activities defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

“Licensee” means any person, partnership, association, or corporation holding a license by the Real Estate Board to act as a real estate broker or real estate salesperson, as defined, respectively, in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

“Principal” means a party who has engaged a real estate broker to perform real estate purchases, sales or rental services in a principal-agent relationship.

“Principal broker” means the individual broker who shall be designated by each firm to assure compliance with Title 54.1, Chapter 21 of the Code of Virginia, and these regulations, and to receive communications and notices from the board which may affect the firm or any licensee employed by or affiliated with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for the activities of the firm and all its licensees.

“Principal to a transaction” means a party to a real estate transaction in the capacity of a seller, buyer, lessee or lessor, or having some other direct contractual connection to such transaction.

“Sole proprietor” means any individual broker, not a corporation, who is trading under the broker's own name, or under an assumed or fictitious name pursuant to the

Emergency Regulations

provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Supervising broker" means the individual associate broker who shall be designated by the firm to supervise the activities of any one of its offices.

PART II. ENTRY.

§ 2.1. Necessity for license or registration.

It shall be unlawful for any person, partnership, association or corporation, to act as a real estate broker, real estate salesperson, or rental location agent or to advertise or assume to act as such real estate broker, real estate salesperson, or rental location agent without a salesperson or broker license or rental location agent registration issued by the Real Estate Board. No partnership, association or corporation shall be granted a license unless every member, and officer of such partnership, association or corporation, who actively participates in its brokerage business shall hold a license as a real estate broker, and unless every employee and every independent contractor who acts as a salesperson for such partnership, association or corporation shall hold a license as a real estate salesperson; provided, however, that a person who holds a license as a real estate broker may act as a salesperson for another real estate broker.

A. Individual license.

A real estate broker's license shall not be issued to an individual trading under an assumed or fictitious name, that is, a name other than the individual's full name, until the individual signs and acknowledges a certificate provided by the board, setting forth the name under which the business is to be organized and conducted, the address of the individual's residence, and the address of the individual's place of business. Each certificate must be attested by the Clerk of Court of the county or jurisdiction wherein the business is to be conducted. The attention of all applicants and licensees is directed to §§ 59.1-69 through 59.1-76 of the Code of Virginia.

B. Sole proprietor (nonbroker owner), partnership, association, or corporation.

Every sole proprietor (nonbroker owner), partnership, association, or corporation must secure a real estate license for its brokerage firm before transacting real estate business. Application for such license shall disclose, and the license shall be issued to, the name under which the applicant intends to do or does business and holds itself out to the public. This license is separate and distinct from the individual broker license required of each partner, associate, and officer of a corporation who is active in the brokerage business.

1. Sole proprietor (nonbroker owner). Each sole proprietor (nonbroker owner) acting as a real estate

broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of the owner; the name and style of the firm; and the address of the office of the real estate entity. Each change in the information contained on the certificate filed with the board must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

2. Partnership. Each partnership acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the partnership; the name and style of the firm; the address of the Virginia office of the firm; the length of time for which it is to continue; and the percentage or part of the partnership owned by each partner. Every change in the partnership must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

3. Association. Each association acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the association; the name and style of the firm; the address of the Virginia office of the firm; the length of time for which it is to continue; and the percentage of part of the association owned by each associate. Every change in the association must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

4. Corporation. Each corporation acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each officer of the corporation; the name and style of the corporation; the address of the Virginia office of the firm; the corporation's place of business, and the names and addresses of the members of the Board of Directors.

a. Every change of officers must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

b. The board will not consider the application of any corporation or its officers, employees, or associates until the corporation is authorized to do business in Virginia.

C. Branch office license.

If a real estate broker maintains more than one place of business within the state, a branch office license shall be issued for each branch office maintained. Application for the license shall be made on forms provided by the

Emergency Regulations

board and shall reveal the name of the firm, the location of the branch office, and the name of the supervising broker for that branch office. Only the branch office license shall be maintained at the branch office location.

§ 2.2. Qualifications for licensure.

Every applicant to the Real Estate Board for a sales person's or broker's license shall have the following qualifications:

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate broker or a real estate salesperson in such a manner as to safeguard the interests of the public.
2. The applicant shall meet the current educational requirements by achieving a passing grade in all required courses of § 54.1-2105 of the Code of Virginia prior to the time the applicant sits for the licensing examination and applies for licensure. See § 7.6 of these regulations for educational requirements for salespersons.
3. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson 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 shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. 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. The applicant, within 12 months prior to making application for a license, shall have passed a written examination provided by the board or by a testing service acting on behalf of the board. Complete applications must be received within the 12-month period.
7. The applicant 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 instructions communicated at the site, either written or oral, on the date of the examination. Failure to

comply with all rules established by the board and the testing service with regard to conduct at the examination shall be grounds for denial of application.

§ 2.3. Additional qualifications for brokers.

An applicant for a license as a real estate broker shall meet the following requirements in addition to those set forth in § 2.2 of these regulations:

A. New broker applicants.

1. The applicant shall meet the current educational requirements of § 54.1-2105 of the Code of Virginia.
2. The applicant shall have been actively engaged as defined in § 1.1 of these regulations as a real estate salesperson for a period of 36 of the 48 months immediately preceding application.

B. Previous brokers.

Any person who has previously held a Virginia real estate broker's license which license was not revoked, suspended or surrendered in connection with a disciplinary action may be issued a broker's license without first having to meet the experience requirements of § 2.3 A 2 of these regulations by:

1. Completing the current educational requirements of § 54.1-2105 of the Code of Virginia; and
2. Passing a written examination provided by the board or by a testing service selected by the board.

§ 2.4. Concurrent licenses.

Concurrent licenses shall be issued by the board to brokers active in more than one separate legal entity upon receipt of a concurrent license form and written affidavits stating that written notice of the applicant's concurrent licensure status has been provided to the principal broker of each firm with which the applicant has been associated. Payment will be required for each license.

§ 2.5. Qualifications for licensure by reciprocity.

Every applicant to the Real Estate Board for a license by reciprocity shall have the following qualifications, except that § 2.4 A 5 shall only be applicable for salesperson applicants:

A. An individual who is currently licensed as a real estate salesperson or broker in another jurisdiction may obtain a Virginia real estate license without taking the Virginia written licensing examination by meeting the following requirements:

1. The applicant shall be at least 18 years of age.
2. The applicant shall have received the salesperson

Emergency Regulations

or broker's license by virtue of having passed in the jurisdiction of original licensure a written examination deemed to be substantially equivalent to the Virginia examination.

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

4. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson 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. At the time of application for a salesperson's license, the applicant must have been actively engaged in real estate for 12 of the preceding 36 months or have met educational requirements that are substantially equivalent to those required in Virginia.

6. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate salesperson or broker in such a manner as to safeguard the interests of the public.

7. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. 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.

B. Additional qualifications for reciprocal licensure as a broker.

An individual who is currently licensed as a real estate broker in another jurisdiction may obtain a Virginia real estate broker's license without taking a written examination by meeting the following requirements in addition to those set forth in § 2.5 A 1 through A 4, A 6 and A 7.

1. The applicant shall have been licensed as a real estate broker and actively engaged as a real estate broker or salesperson in the current jurisdiction of licensure for at least 36 of the 48 months immediately prior to making application in Virginia. (See § 1.1 of these regulations for the definition of "actively engaged.")

2. The applicant shall have met broker educational requirements that are substantially equivalent to those required in Virginia.

§ 2.6. Activation of license.

A. Any inactive licensee may affiliate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. Continuing education pursuant to § 54.1-2105 of the Code of Virginia shall be completed within two years prior to activation of a license.

B. Any inactive licensee may affiliate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. Further, any licensee who has not been actively licensed with a licensed real estate firm or sole proprietorship for a period of greater than three years shall be required to meet the educational requirements for a salesperson or broker in effect at the time the license activate form for issuance of such license is filed with the board.

§ 2.7. Rental location agent.

An applicant for registration as a rental location agent need not be employed by or affiliated with a real estate broker, but shall apply in writing upon forms provided by the board, and shall meet the following requirements:

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a rental location agent as defined in § 54.1-2102 of the Code of Virginia.

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

3. A rental location agent shall not be concurrently registered with more than one rental location agency.

4. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. 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.

§ 2.8. Rental location agency.

A. Each business operating as a rental location agency, whether in the form of a sole proprietorship, association, partnership, or corporation, shall obtain from the board a firm registration as a rental location agency.

B. Every rental location agency shall be supervised by a

Emergency Regulations

supervising rental location agent designated by the agency and registered with the board. The supervising rental location agent shall have responsibility for supervising the activities of the agency and all its registrants.

C. Each rental location agent registration shall be issued only to the agency where the agent is affiliated or employed. The supervising rental location agent shall keep such registrations in his custody and control for the duration of the agent's employment or association with that agency.

D. When any rental location agent is discharged or in any way terminates his employment or affiliation with an agency, it shall be the duty of the supervising rental location agent to notify the board of the termination by returning the registration by certified mail to the board within 10 calendar days. The supervising rental location agent shall indicate on the registration the date of termination, and shall sign the registration before returning it.

§ 2.9. Application and registration fees.

All application fees for licenses and registrations are nonrefundable and the date of receipt by the board or its agent is the date which will be used to determine whether or not it is on time.

A. Application fees for original licenses or registrations are as follows:

Salesperson by education and examination \$50

Salesperson by reciprocity \$ 75

Broker by education and examination \$ 70

Broker by reciprocity \$ 100

Broker concurrent license \$60

Rental location agent \$ 60

Rental location agency \$ 100

Firm license \$ 100

Branch office license \$ 50

Transfer application \$ 35

Activate application \$ 35

Certification of licensure \$ 35

B. Examination fees are as follows:

Registration for sales and brokers \$68.50

Additional fee for phone or "fax" registrations \$ 5.00

PART III. RENEWAL OF LICENSE/REGISTRATION.

§ 3.1. Renewal required.

Licenses issued under these regulations for salespersons, brokers, and firms shall expire two years from the last day of the month in which they were issued, as indicated on the license. Registrations issued under these regulations for rental location agents and rental location agencies shall expire every two years on June 30.

§ 3.2. Qualification for renewal.

A. Continuing education requirements.

As a condition of renewal, and pursuant to § 54.1-2105 of the Code of Virginia, all active brokers and salespersons, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course of not less than six classroom hours during each licensing term. Active licensees called to active duty in the Armed Forces of the United States may complete this course within six months of their release from active duty. Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal (see § 2.6, Activation of license).

1. Schools and instructors shall be those as required under § 54.1-2105 of the Code of Virginia, and § 7.2 of these regulations.

2. The specific course content and curriculum shall be prescribed and approved by the board. The course curriculum shall be provided to each school in final form prior to the course offering and updated periodically to reflect recent developments in federal, state, and local real estate law, regulations and case decisions.

a. Continuing education courses offered in other jurisdictions must meet Virginia's statutory requirements and must conform to the board's specifically prescribed course content and curriculum as described in § 54.1-2105 of the Code of Virginia. Such courses must be approved in advance of offering to be certified for course credit for licenses.

b. Correspondence courses will not be approved for credit for continuing education.

3. Attendance. Credit for continuing education course completion is to be given only for attendance in its entirety. It will be the instructor's responsibility to ensure compliance with this regulation.

4. Certification of course completion. It shall be the responsibility of the licensee to provide continuing education course completion certification. Proof of

Emergency Regulations

course completion shall be made on a form prescribed by the board. Failure to provide course completion certification will result in the license not being renewed and reinstatement will therefore be required.

5. Credit earned by instructors. Instructors who are also licensees of the board may earn continuing education credit for teaching continuing education courses. Verification of instructor compliance with the continuing education course required must be verified by the director or dean of the school at which the course was taught.

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

§ 3.3. Procedures for renewal.

A. The board will mail a renewal application form to the licensee or registrant at the last known home address. The board will mail a firm renewal notice to the business address of the firm. These notices shall outline the procedures for renewal. The board will notify the firm 30 days after the expiration of the licenses of salespersons and brokers associated with the firm. Failure to receive these notices shall not relieve the licensee or the registrant of the obligation to renew.

B. Prior to the expiration date shown on the license or registration, each licensee or registrant desiring to renew his license or registration shall return to the board the renewal application forms and the appropriate fee as outlined in § 3.4 of these regulations.

§ 3.4. Fees for renewal.

All fees for renewals are nonrefundable, and the date of receipt by the board or its agent is the date which will be used to determine whether or not it is on time, and are as follows:

- Salesperson \$ 50
- Broker \$ 70
- Concurrent broker \$70
- Firm \$ 100
- Rental location agent \$ 60
- Rental location agency \$ 100
- Branch office \$ 50

§ 3.5. Board discretion to deny renewal.

The board may deny renewal of a license for the same reasons as it may refuse initial licensure or discipline an extant license.

PART IV. REINSTATEMENT.

§ 4.1. Failure to renew; reinstatement required.

A. All applicants for reinstatement must meet all requirements set forth in §§ 3.2 A and 3.2 B of these regulations. Applicants for reinstatement of an active license must have completed the continuing education requirement in order to reinstate the license. Applicants for reinstatement of an inactive license are not required to complete the continuing education requirement for license reinstatement.

B. If the renewal fee is not received by the board within 30 days of the expiration date noted on the license or registration, a reinstatement fee of \$200 is required.

C. After 12 months, reinstatement is not possible under any circumstances and the applicant must meet all current educational and examination requirements and apply as a new applicant.

D. While a license may be reinstated with additional fee for up to one year following expiration, any real estate activity conducted subsequent to the expiration shall constitute unlicensed activity and may be subject to prosecution under Chapter 1 of Title 54.1 of the Code of Virginia.

§ 4.2. Board discretion to deny reinstatement.

The board may deny reinstatement of a license for the same reasons as it may refuse initial licensure or discipline an extant license.

PART V. STANDARDS OF PRACTICE.

§ 5.1. Place of business.

A. Within the meaning and intent of § 54.1-2110 of the Code of Virginia, a place of business shall be an office where:

1. The principal broker, either through his own efforts or through the efforts of his employees or associates, regularly transacts the business of a real estate broker as defined in § 54.1-2100 of the Code of Virginia; and
2. The principal broker and his employees or associates can receive business calls and direct business calls to be made.

B. No place of business shall be in a residence unless it is separate and distinct from the living quarters of the residence and is accessible by the public.

C. Each place of business and each branch office shall be supervised and personally managed by an on-premises real estate broker who shall supervise only that office and

Emergency Regulations

shall be at the office or within easy access during regular business hours.

D. Every individual, partnership, association, or corporation acting as a real estate broker may display signage on the outside of each place of business maintained in the Commonwealth for the purpose of transacting business as a real estate broker. If displayed, the sign shall state the name of such individual, partnership, association, or corporation, as set forth in the license issued by the board, and contain the words "real estate," "realty" or other words or phrases designating a member of a generally recognized association or organization of real estate brokers, whichever is applicable.

E. Every principal broker shall have readily available in the firm's main place of business his license and the license of every salesperson and broker associated with or employed by the firm. The licenses shall be displayed together, not individually, in such a manner that the public can readily determine the names of the licensees.

F. Notice in writing, accompanied by all the current licenses, shall be given to the board in the event of any change of business name or location. Such notice shall be mailed to the board within 10 days of the change of name or location, whereupon the board shall reissue the license for the unexpired period.

§ 5.2. Maintenance of licenses.

A. Salespersons and individual brokers shall at all times keep the board informed of their current home address. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board of any change of address. A licensee shall notify the board in a written form acceptable to the board within 10 days of any change in the licensee's name in which they do business.

B. Salespersons and brokers shall only be issued a license to the place of business of the sole proprietorship or firm with which the salesperson or broker is affiliated or at which such licensee is employed. The license shall be issued after the sole proprietor or principal broker files a written request on a form supplied by the board.

C. Salespersons and brokers on inactive status shall receive written acknowledgement of payment from the board at the time they renew their license, but no license shall be issued since they are not affiliated with a sole proprietorship or firm.

D. When any salesperson or broker is discharged or in any way terminates his employment or affiliation with a sole proprietorship or firm, it shall be the duty of the sole proprietor or principal broker to return the license by certified mail to the board so that it is received within 10 calendar days of the date of termination. The sole

proprietor or principal broker shall indicate on the license the date of termination, and shall sign the license before returning it.

E. The board, upon receipt of a transfer application or request for placement of a license on inactive status from a salesperson or associate broker, will notify the former principal broker of the licensee's change of affiliation or status at the firm's address of record. If the license has not been received by the board by the date on which above notification is issued, then it shall be the duty of the former principal broker to return the license by certified mail to the board so that it is received within 10 calendar days of the date of the above notification.

F. All certificates of licensure in any form are the property of the Real Estate Board. Upon termination of a licensee, closing of a firm, death of a licensee, change of licensee name or address such licenses must be returned with proper instruction to the board within 10 days.

§ 5.3. Maintenance and management of escrow accounts and financial records.

A. Maintenance of escrow accounts.

1. If money is to be held in escrow, each firm or sole proprietorship shall maintain in the name by which it is licensed one or more separate escrow accounts in a federally insured depository in Virginia into which all down payments, earnest money deposits, money received upon final settlement, rental payments, rental security deposits, money advanced by a buyer or seller for the payment of expenses in connection with the closing of real estate transactions, money advanced by the broker's principal or expended on behalf of the principal, or other escrow funds received by him or his associates on behalf of his principal or any other person shall be deposited unless all parties to the transaction have agreed otherwise in writing. The principal broker shall and the supervising broker may be held responsible for these accounts. All such accounts, checks and bank statements shall be labeled "escrow" and the account(s) shall be designated as "escrow" accounts with the financial institution where such accounts are established.

2. Funds to be deposited in the escrow account will necessarily include moneys which shall ultimately belong to the licensee, but such moneys shall be separately identified in the escrow account records and shall be paid to the firm by a check drawn on the escrow account when the funds become due to the licensee. The fact that an escrow account contains money which may ultimately belong to the licensee does not constitute "commingling of funds" as set forth by § 6.12 5 of these regulations, provided that there are periodic withdrawals of said funds at intervals of not more than six months, and that the licensee can at all times accurately identify the total funds in that account which belong to the licensee and

Emergency Regulations

the firm.

3. If escrow funds are used to purchase a certificate of deposit, the pledging or hypothecation of such certificate, or the absence of the original certificate from the direct control of the principal or supervising broker, shall constitute commingling as prohibited by § 6.12 5 of these regulations.

B. Disbursement of funds from escrow accounts.

1. Upon acceptance of a contract (ratification), earnest money deposits and down payments received by the principal or supervising broker or his associates shall be placed in an escrow account and shall remain in that account until the transaction has been consummated or terminated. In the event the transaction is not consummated, the principal or supervising broker shall hold such funds in escrow until (i) all principals to the transaction have agreed in writing as to their disposition, or (ii) a court of competent jurisdiction orders such disbursement of the funds, or (iii) the broker can pay the funds to the principal to the transaction who is entitled to receive them in accordance with the clear and explicit terms of the contract which established the deposit. In the latter event, prior to disbursement, the broker shall give written notice to each principal to the transaction by either (i) hand delivery receipted for by the addressee, or (ii) by regular and certified mail, that this payment will be made unless a written protest from that principal to the transaction is received by the broker within 30 days of the delivery or mailing, as appropriate, of that notice. A broker who has carried out the above procedure shall be construed to have fulfilled the requirements of this regulation.

2. Unless otherwise agreed in writing by all principals to the transaction, a licensee shall not be entitled to any part of the earnest money deposit or to any other money paid to the licensee in connection with any real estate transaction as part of the licensee's commission until the transaction has been consummated.

3. On funds placed in an account bearing interest, written disclosure at contract or lease writing shall be made to the principals involved in the transaction regarding the disbursement of interest.

4. A licensee shall not disburse or cause to be disbursed moneys from an escrow or property management escrow account unless sufficient money is on deposit in that account to the credit of the individual client or property involved.

5. Unless otherwise agreed in writing by all principals to the transaction, expenses incidental to closing a transaction, e.g., fees for appraisal, insurance, credit report, etc., shall not be deducted from a deposit or down payment.

C. Maintenance of financial records.

1. A complete record of financial transactions conducted under authority of the principal broker's Virginia license or the rental location agent's registration shall be maintained in the principal broker's place of business, or in a designated branch office, or in the office of the rental location agency. When the principal broker's office or the main office of the rental location agency is located outside of Virginia and the firm has a branch office in Virginia, these records shall be maintained in the Virginia office. These records shall show, in addition to any other requirements of the regulations, the following information: from whom money was received; the date of receipt; the place of deposit; the date of deposit; and, after the transaction has been completed, the final disposition of the funds.

2. The principal broker shall maintain a bookkeeping system which shall accurately and clearly disclose full compliance with the requirements outlined in § 5.3 of these regulations. Accounting records which are in sufficient detail to provide necessary information to determine such compliance shall be maintained.

§ 5.4. Advertising by licensees.

The name under which the broker does business and the manner in which the broker advertises shall not imply that the property listed or marketed by the broker for others is "for sale by owner." A broker shall not advertise in any newspaper, periodical, or sign to sell, buy, exchange, rent, or lease property in a manner indicating that the offer to sell, buy, exchange, rent, or lease such property is being made by a person not licensed as a real estate broker. No advertisement shall be inserted in any publication where only a post office box number, telephone number, or street address appears. Every broker, when advertising real estate in any newspaper or periodical, shall affirmatively and unmistakably indicate that the party advertising is a real estate broker.

A. Definitions.

The following definitions apply unless a different meaning is plainly required by the context:

"Advertising" means any communication, whether oral or written, between a licensee or an entity acting on behalf of one or more licensees and any other person or business entity. It shall include, but is not limited to, telephonic communications, insignias, business cards, advertisements, telephone directory, listing agreements, contracts of sale, billboards, signs, letterheads, as well as radio, television, magazine, and newspaper advertisements; and

"Institutional advertising" means advertising in which neither the licensed name nor any other identification of any licensed individual is disclosed, no real property is

Emergency Regulations

identified, and a service mark is identified.

"Service mark" means the trade name, service mark, or logo, whether or not registered under any federal or state law, which is owned by an entity other than the licensee and which the licensee has obtained permission to use through agreement, license, franchise, or otherwise;

B. Every licensee is prohibited from advertising and marketing under the licensee's own name (except for sole proprietors trading under the principal broker's own name) in any manner offering on behalf of others to buy, sell, exchange, rent, or lease any real property. All advertising and marketing must be under the direct supervision of the principal broker or supervising broker and in the name of the firm. The firm's licensed name must be clearly and legibly displayed on all display signs and other types of advertising and marketing.

C. Notwithstanding the above restrictions, where a licensee is the owner of or has any ownership interest in the property being advertised, the licensee shall advertise with the notice that the owner is a real estate licensee, but such advertisement must not indicate or imply that the licensee is operating a real estate brokerage business.

D. Service marks and institutional advertising.

1. All institutional advertising shall state that the service being advertised is real estate brokerage, and shall state, if applicable, that each licensed firm or sole proprietorship displaying or using the service mark is an independently owned and operated business.

2. Disclosure that the licensed firm or sole proprietorship is independently owned and operated shall not be required in the following categories of written noninstitutional advertising:

a. "For sale" and "for lease" signs located on the premises of specific property for sale or lease;

b. Advertising by a licensed firm or sole proprietorship in newspapers, magazines, or other publications of a single specific property for sale or lease when the advertisement occupies no more than 28 of the standard classified advertising lines of the newspaper, magazine, or other publications in which the advertisement is published;

c. Telephone directory advertisements disclosing that the licensed brokerage firm or sole proprietorship is independently owned and operated is required in "display" advertisements and in "in column informational" or "business card" advertisements, or their equivalent, appearing in telephone directories.

3. In oral, noninstitutional advertising, the speaker shall disclose affirmatively the licensee's name, and except in the case of telephone communication, shall

disclose that the licensed firm or sole proprietorship is independently owned and operated.

PART VI. STANDARDS OF CONDUCT.

§ 6.1. Grounds for disciplinary action.

The board has the power to fine any licensee or registrant, and to suspend or revoke any license or registration issued under the provisions of Title 54.1, Chapter 21 of the Code of Virginia, and the regulations of the board, where the licensee has been found to have violated or cooperated with others in violating any provision of Title 54.1, Chapter 21 of the Code of Virginia, or any regulation of the board.

§ 6.2. Disclosure of interest.

A. If a licensee knows or should have known that he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, is acquiring or attempting to acquire real property through purchase or lease and the licensee is a party to the transaction, the agent must disclose that information to the owner in writing in the offer to purchase or lease.

B. A licensee selling or leasing property in which he has any interest must disclose that he is a real estate licensee to any purchaser or lessor in writing in the offer to purchase or lease.

§ 6.3. Disclosure of agency relationships.

A. All licensees shall promptly disclose their agency relationship(s) to all actual and prospective buyers and sellers and optionors and optionees in these ways:

1. As soon as the licensee has substantive discussions about specific property(ies) with a principal or prospective principal, the licensee shall disclose to the principal or prospective principal the person(s) whom the licensee represents in a principal-agency relationship; and

2. Further, this disclosure shall be made in writing at the earliest practical time, but in any case not later than the time when specific real estate assistance is first provided. This written disclosure shall be acknowledged by the principals.

B. All licensees shall promptly disclose their agency relationships to all actual and prospective lessors and lessees in the following way:

1. A disclosure statement shall be included in writing in all applications for lease or in the lease itself, whichever occurs first; and

2. The disclosure requirement shall not apply to lessors and lessees in single or multi-family residential

Emergency Regulations

units on leases of less than two months.

§ 6.4. Licensees dealing on own account.

Any licensee failing to comply with the provisions of Title 54.1, Chapter 21 of the Code of Virginia or the regulations of the Real Estate Board in performing any acts covered by §§ 54.1-2100 and 54.1-2101 of the Code of Virginia, may be charged with improper dealings, regardless of whether those acts are in the licensee's personal capacity or in his capacity as a real estate licensee.

§ 6.5. Provision of records to the board.

A licensee of the Real Estate 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 real estate transaction in which the licensee was involved, or for which the licensee is required to maintain records for inspection and copying by the board or its agents.

§ 6.6. Unworthiness and incompetence.

Actions constituting unworthy and incompetent conduct include:

1. Obtaining a license by false or fraudulent representation;
2. Holding more than one license as a real estate broker or salesperson in Virginia except as provided in these regulations;
3. As a currently licensed real estate salesperson, sitting for the licensing examination for a salesperson's license;
4. As a currently licensed real estate broker, sitting for a real estate licensing examination;
5. Having been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or 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 paragraph. 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;
6. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury;

7. Having been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act, the Fair Housing Laws of any jurisdiction of the United States including without limitation Title VIII of the Civil Rights Act of 1968, or the Civil Rights Act of 1866, there being no appeal therefrom or the time for appeal having elapsed; and

8. Failing to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public, or otherwise engaging in improper, fraudulent, or dishonest conduct.

§ 6.7. Conflict of interest.

Actions constituting a conflict of interest include:

1. Being employed by, affiliated with or receiving compensation from a real estate broker other than the licensee's principal broker, without the written consent of the principal broker;
2. Acting for more than one party in a transaction without the written consent of all principals for whom the licensee acts;
3. Acting as an agent for any principal in a real estate transaction outside the licensee's brokerage firm(s) or sole proprietorship(s).

§ 6.8. Improper brokerage commission.

Actions resulting in an improper brokerage commission include:

1. Paying a commission or other valuable consideration to any person for acts or services performed in violation of Title 54.1, Chapter 21 of the Code of Virginia, or these regulations; provided, however, that referral fees and shared commissions may be paid to any real estate firm licensed in this or another jurisdiction, or to any referral firm in the United States, the members of which are brokers licensed in this or another jurisdiction and which only disburses commissions or referral fees to its licensed member brokers;
2. Notwithstanding the provisions of § 54.1-2102 of the Code of Virginia, accepting a commission or other valuable consideration, as a real estate salesperson or associate broker, for the performance of any of the acts specified in Title 54.1, Chapter 21 of the Code of Virginia or the regulations of the board, from any person except the licensee's principal broker at the time of the transaction;
3. Receiving a fee or portion thereof including a referral fee or a commission or other valuable consideration for services required by the terms of the real estate contract when such costs are to be paid by either one or both principals to the transaction unless

Emergency Regulations

such fact is revealed in writing to the principal(s) prior to the time of ordering or contracting for the services;

4. Offering or paying any money or other valuable consideration for services required by the terms of the real estate contract to any party other than the principals to a transaction which results in a fee being paid to the licensee; without such fact being revealed in writing to the principal(s) prior to the time of ordering or contracting for the services.

5. Making a listing contract or lease which provides for a "net" return to the seller/lessor, leaving the licensee free to sell or lease the property at any price he can obtain in excess of the "net" price named by the seller/lessor;

6. Charging money or other valuable consideration to or accepting or receiving money or other valuable consideration from any person or entity other than the licensee's principal for expenditures made on behalf of that principal without the written consent of the principal.

§ 6.9. Improper dealing.

Actions constituting improper dealing include:

1. Making an exclusive agency contract or an exclusive right-to-sell contract which does not have a definite termination date;

2. Offering real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

3. Placing a sign on any property without the consent of the owner of the property or the owner's authorized agent;

4. Causing any advertisement for sale, rent, or lease to appear in any newspaper, periodical, or sign without including in the advertisement the name of the firm or sole proprietorship;

5. Acting in the capacity of settlement agent in a real estate closing by a salesperson, except:

a. When the salesperson is under the direct supervision of the principal/supervising broker;

b. When the salesperson is under the direct supervision of a licensed officer of the corporation or a licensed partner of the partnership under which the salesperson is licensed;

c. When the settlement agent is a member of the Virginia State Bar or a law firm, the members of

which are members of the Virginia State Bar; or

d. When the settlement agent is a title insurance company or an agency thereof or a firm regularly engaged in the business or closing real estate transactions;

§ 6.10. Misrepresentation/omission.

Actions constituting misrepresentation or omission, or both, include:

1. Using "bait and switch" tactics by advertising or offering real property for sale or rent with the intent not to sell or rent at the price or terms advertised, unless the advertisement or offer clearly states that the property advertised is limited in specific quantity and the licensee or registrant did in fact have at least that quantity for sale or rent;

2. Failing to disclose in a timely manner to a prospective purchaser/licensee, or seller/lessor, any material information related to the property reasonably available to the licensee or registrant;

3. Failing as a licensee to promptly tender to the buyer and seller every written offer or counter-offer to purchase obtained on the property involved;

4. Failing to include the complete terms and conditions of the real estate transaction in any offer to purchase or rent, including identification of all those holding any deposits;

5. Knowingly making any false statement or report, or willfully misstating the value of any land, property, or security for the purpose of influencing in any way the action of any lender upon:

a. Applications, advance discounts, purchase agreements, repurchase agreements, commitments or loans;

b. Changes in terms or extensions of time for any of the items listed in § 6.10 5 whether by renewal, deferrment of action, or other means without the prior written consent of the principals to the transaction;

c. Acceptance, release, or substitution of security for any of the items listed in § 6.10 5 a without the prior written consent of the principals to the transaction.

6. Making any misrepresentation; and

7. Making a false promise through agents, salespersons, advertising, or other means.

§ 6.11. Delivery of instruments.

Emergency Regulations

Actions constituting improper delivery of instruments include:

1. Failing to make prompt delivery to each party to a document, complete and legible copies of any written listings, offers to lease, offers to purchase, counteroffers, addenda and ratified agreements ;
2. Failing to provide in a timely manner to all parties to the transaction written notice of any material changes to the transaction;
3. Failing to deliver to the seller and buyer, at the time a real estate transaction is completed, a complete and accurate statement of receipts and disbursements of moneys received by the licensee, duly signed and certified by the principal or supervising broker or his authorized agent; provided, however, if the transaction is closed by a settlement agent other than the licensee or his broker, and if the disbursement of moneys received by the licensee is disclosed on the applicable settlement statement, the licensee shall not be required to provide the separate statement of receipts and disbursements; and
4. Refusing or failing without just cause to surrender to the rightful owner, upon demand, any document or instrument which the licensee possesses.

§ 6.12. Record keeping and escrow funds.

Actions constituting improper record keeping and maintenance of escrow funds include:

1. Failing, as a principal or supervising broker, to retain for a period of three years from the date of the closing a complete and legible copy of each contract and agreement, notice and closing statement related to a real estate transaction, and all other documents material to that transaction available and accessible to the broker;
2. Having received moneys on behalf of others and failed to maintain a complete and accurate record of such receipts and their disbursements for a period of three years from the date of the closing;
3. Failing, within a reasonable time, to account for or to remit any moneys coming into a licensee's possession which belong to others;
4. Accepting any note, nonnegotiable instrument, or anything of value not readily negotiable, as a deposit on a contract, offer to purchase, or lease, without acknowledging its acceptance in the agreement;
5. Commingling the funds of any person by a principal or supervising broker or his employees or associates with his own funds, or those of his corporation, firm, or association; and

6. Failure to deposit such funds in an account or accounts designated to receive only such funds as required by these regulations (see § 5.3 A 1).

§ 6.13. Rental location agents.

Actions constituting improper activities of a rental location agent include:

1. Accepting or agreeing to accept any fee as a rental location agent without giving the person paying or agreeing to pay such fee a contract or receipt in which the agent sets forth a definite termination date for the services to be provided. The termination date shall not be later than one year from the date of the original agreement or acceptance of a fee. The rental location agent shall agree in the contract or receipt to repay, upon request, within 10 days of the expiration date, any amount of fee collected over and above the sum of the service charge if no rental is obtained. The rental location agent shall further agree in the contract or receipt that if rental information provided by the agent is not current or accurate, the full fee shall be repaid upon request within 10 days of the delivery of the inaccurate rental information;
2. Referring, as a rental location agent, a prospective tenant to any property for which the agent has not verified the availability of the property within seven working days prior to the referral; and
3. Failing, as a rental location agent, to maintain a written registry of all lists of rentals provided to customers and of all advertisements published or caused to be published by the agent, together with the address of the property listed or advertised, the date of verification of the availability, and the name, address, and telephone number, if any, of the party who offered the property for rent. This registry shall be kept for a period of three years from the date of the lists or the publication of any advertisement listed in it.

§ 6.14. Principal and supervising broker's responsibility for acts of licensees.

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 broker, supervising broker, or both, may not be cause for disciplinary action against the principal broker, supervising broker, or both, unless it appears to the satisfaction of the board that the principal broker, supervising broker, or both, knew or should have known of the unlawful act or violation.

§ 6.15. Effect of disciplinary action on subordinate licensees.

Action by the board resulting in the revocation,

suspension, or denial of renewal of the license of any principal broker or sole proprietor shall automatically result in an order that the licenses of any and all individuals affiliated with or employed by the affected firm be returned to the board until such time as they are reissued upon the written request of a sole proprietor or principal broker pursuant to § 5.2 B.

PART VII. SCHOOLS.

§ 7.1. Definitions.

As used in these regulations, unless a different meaning is plainly required by the context:

"Accredited colleges, universities and community colleges," as used in § 54.1-2105 2 of the Code of Virginia, 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.

"Classroom hour/clock hour" means 50 minutes.

"Equivalent course" means any course encompassing the principles and practices of real estate and approved by the board.

"Proprietary school" means a privately owned school, not under the authority of the Department of Education, but approved by the Real Estate Board to teach real estate courses.

§ 7.2. Proprietary school standards.

Every applicant to the Real Estate Board for a proprietary school certificate shall meet the following standards:

A. Educational environment.

All schools must be in a building conducive to academic purposes, with library facilities readily accessible to students at times other than their regularly scheduled class hours. Classroom arrangement should allow for workshop-type instruction and small-group activity. Facilities must meet necessary building code standards, fire safety standards, and sanitation standards.

B. Instructor qualifications.

Every applicant to the Real Estate Board for approval as an instructor shall have one of the following qualifications:

1. Baccalaureate degree in real estate, or in business with a concentration in real estate or a closely related field; or

2. Baccalaureate degree, a real estate license, and two years of discipline-free active real estate experience within the past five years; or

3. Seven years of discipline-free active experience acquired in the real estate field in the past 10 years and an active broker's license ; or

4. Approval may be granted to an active Virginia licensed attorney whose primary area of practice is real estate law; or

5. Qualified experts in a specific field of real estate who will teach only in the area of their expertise. For example, a licensed real estate appraiser, with at least five years of active appraisal experience in Virginia, may be approved to teach Real Estate Appraisals. Such applicants will be required to furnish proof of their expertise including, but not limited to, educational transcripts, professional certificates and letters of reference which will verify the applicants expertise.

C. Courses.

All real estate courses must be acceptable to the board and are required to have a monitored, final written examination.

1. *Prelicensing courses may be completed by correspondence if such courses are not available in a reasonable proximity to the applicant's residence or business location in the Commonwealth. Students seeking board approval to take prelicensing correspondence courses must make a written request to the board in which they specify their justification for taking correspondence courses. These reasons must include one of the following: the student's place of business or residence lies outside a 30 mile radius of a board approved school, or board approved schools in the student's home area do not offer the required course, or the course will not be offered by board approved schools in the student's home area within four months of the submission date of application by the student.*

2. *Those schools who wish to offer prelicensing correspondence courses (Principles and Practices of Real Estate, Real Estate Brokerage, Real Estate Finance, Real Estate Law or Real Estate Appraisal, etc.) must submit a request, in writing, to the board to offer the course(s) and supply the following information:*

- a. *Course content. All Principles and Practices of Real Estate courses must include the 25 topic areas specified in Regulation § 7.6. All requests to offer broker courses must include a comparable course syllabus from an accredited university, college, or community college to establish equivalency.*

Emergency Regulations

b. Name of the course's text and any research materials used for study assignments.

c. Description of any research assignments.

d. Copies of test or quizzes.

e. Information explaining how the "Principles" course will require 60 hours of study, or how each broker related course will require 45 hours of study, in compliance with § 54-1-2105, Code of Virginia, 1950, as amended.

f. Information about record keeping for this type of course delivery.

3. Correspondence courses must have a final, monitored written examination which is administered at the school's main, or branch, site.

D. All schools must establish and maintain a record for each student. The record shall include: the student's name and address; the course name and clock hours attended; and the date of successful completion. Records shall be available for inspection during normal business hours by authorized representatives of the board. Schools must maintain all student and class records for a minimum of five years.

§ 7.3. Fees.

A. The application fee for original certificate for a proprietary school shall be \$100.

B. The renewal fee for proprietary school certificates expiring annually on June 30 shall be \$50.

C. The Board in its discretion may deny renewal of a certificate. Upon such denial, the certificate holder may request that a hearing be held.

§ 7.4. Posting school certificate of approval and registration.

School certificates of approval and registration, and instructor certificates must be displayed in each approved school facility in a conspicuous place readily accessible to the public.

§ 7.5. Withdrawal of approval.

The board may withdraw approval of any school for the following reasons:

1. The school, instructors, or courses no longer meet the standards established by the board.

2. The school solicits information from any person for the purpose of discovering past examination questions or questions which may be used in future examinations.

3. The school distributes to any person copies of examination questions, or otherwise communicates to any person examination questions, without receiving the prior written approval of the copyright owner to distribute or communicate those questions.

4. The school, through an agent or otherwise, advertises its services in a fraudulent, deceptive or misrepresentative manner.

5. Officials, instructors or designees of the school sit for a real estate licensing examination for any purpose other than to obtain a license as a broker or salesperson.

§ 7.6. Course content of real estate principles and practices.

The following shall be included in the four -semester-hour or seven -quarter-hour course which shall not have less than 60 classroom hours:

1. Economy and social impact of real estate
2. Real estate market and analysis
3. Property rights
4. Contracts
5. Deeds
6. Mortgages and deeds of trust
7. Types of mortgages
8. Leases
9. Liens
10. Home ownership
11. Real property and title insurance
12. Investment
13. Taxes in real estate
14. Real estate financing
15. Brokerage and agency contract responsibilities
16. Real estate marketing
17. Real property management
18. Search, examination, and registration of title
19. Title closing
20. Appraisal of residential and income producing

Emergency Regulations

property

21. Planning subdivision developments and condominiums

22. Regulatory statutes

23. Housing legislation

24. Fair housing statutes

25. Real Estate Board regulations

§ 7.7. Related subjects.

"Related subjects," as referred to in § 54.1-2105 of the Code of Virginia, shall be real estate related and shall include, but are not limited to, courses in property management, land planning and land use, business law, real estate economics, and real estate investments.

§ 7.8. Required specific courses.

Brokerage shall be a required specific course with three semester hours or six quarter hours constituting a complete course.

§ 7.9. Credit for broker-related courses.

No more than three semester hours or three quarter hours of broker-related courses shall be accepted in lieu of specific broker courses.

§ 7.10. Broker-related course approval procedure.

Schools intending to offer equivalent broker courses must submit to the board for approval a copy of the syllabus of the particular course with a cover letter requesting approval. In addition, the school must accompany these materials with a copy of a comparable course syllabus from an accredited university, college, or community college to establish equivalency.

DEPARTMENT OF STATE POLICE

Title of Regulation: VR 545-01-11. Regulations Governing Purchases of Handguns in Excess of One within a Thirty-Day Period.

Statutory Authority: § 18.2-308.2:2 N of the Code of Virginia.

Effective Dates: July 1, 1993, through June 30, 1994.

Summary:

Chapter 486 of the 1993 Acts of Assembly (HB 1592) amended § 18.2-308.2:2 of the Code of Virginia by adding a subsection N, making it unlawful for any person not a licensed firearms dealer to purchase

more than one handgun within any thirty-day period. Purchases in excess of the limit may be made upon completion of an enhanced background check by special application to the Department of State Police. The Superintendent of State Police is required to promulgate regulations for the implementation of the application process. The emergency regulations establish the requirements and procedures for obtaining a certificate authorizing the purchase of more than one handgun within a thirty-day period.

Basis of Emergency:

The effective date of the enabling legislation did not allow sufficient time to comply with the provisions of the Administrative Process Act (APA).

During the term of these emergency regulations, the Superintendent of State Police will promulgate permanent regulations following the APA.

/s/ Carl R. Baker
Superintendent of State Police
Date: April 21, 1993

Approved:

/s/ O. Randolph Rollins
Secretary of Public Safety
Date: April 27, 1993

Approved:

/s/ Lawrence Douglas Wilder
Governor
Date: May 18, 1993

I acknowledge receipt of this emergency regulation to be effective July 1, 1993.

/s/ Joan W. Smith
Registrar of Regulations
Date: May 25, 1993

VR 545-01-11. Regulations Governing Purchases of Handguns in Excess of One within a Thirty-Day Period.

Article I.

Reports by Dealers.

§ 1.1. Any dealer in firearms who completes a sale or transfer of a handgun without having been advised by the Department of State Police if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, because the dealer was not so advised by the end of the dealer's next business day, or was told by the State Police that a response would not be available by the end of the dealer's next business day, shall notify the Department of State Police of the sale or transfer by telephone as soon as

Emergency Regulations

possible, but in no event later than the end of the dealer's next business day.

§ 1.2. Any dealer in firearms who requests and receives criminal history record information in connection with an intended sale or transfer of a handgun which indicates the prospective purchaser or transferee is not prohibited from possessing or transporting a firearm by state or federal law shall notify the Department of State Police by telephone as soon as possible, but in no event later than the end of the dealer's next business day, whenever the dealer determines that the sale or transfer will not be completed.

Article 2. Applications.

§ 2.1. Any person desiring to purchase in excess of one handgun within any thirty-day period shall make application under oath, on the form set forth in § 8.1 of these regulations. The applicant shall deliver such application in person to State Police Administrative Headquarters, 7700 Midlothian Turnpike, Richmond, Virginia, a division headquarters or area office of the Department of State Police, or to any local law-enforcement agency certified by the Department of State Police as its agent to receive such applications.

§ 2.2. At the time of delivery of the application form required by § 2.1 of these regulations, the applicant shall present two forms of identification, at least one of which is a photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense, which was issued at least sixty (60) days prior to presentation. In addition, the applicant shall produce documentation of residence, which must show an address identical to that shown on the photo-identification form. Documentation of residence may be in any of the forms allowed under subsection B of § 18.2-308.2:2 of the Code of Virginia.

§ 2.3. If the application indicates that the purchase is for the purpose of further transfer of a handgun or handguns to someone other than the applicant, the applicant shall also provide the name, social security number, sex, height, weight, race, all residence addresses within the past five years, date of birth, place of birth, and citizenship of the person or persons to whom the further transfer is to be made.

§ 2.4 The application must demonstrate to the satisfaction of the Department of State Police that the purpose of the purchase of more than one handgun within any thirty-day period is bona fide and lawful, and is not prohibited or illegal under any federal, state or local law. In evaluating such application, the Department of State Police may consider the number, type and model of handguns to be purchased pursuant to this application or any other application made by the applicant within the past 12 months, the type and model of handgun purchased during the same month under the provisions of § 18.2-308.2:2 of

the Code of Virginia, the intended use for such handguns applied to be purchased and the relationship between the intended use and the number and type of handguns applied for in this application and any other application made by the applicant within the past 12 months.

Article 3. Enhanced Background Check.

§ 3.1. Upon receipt of a completed application form, a division headquarters or area office of the Department of State Police or a local law-enforcement agency certified by the Department of State Police as its agent to receive such applications shall transmit the application, in accordance with policies and procedures prescribed by the Department of State Police, to State Police Administrative Headquarters. Upon receipt at Administrative Headquarters, the Department of State Police will conduct an enhanced background check of the applicant and any person to whom any handgun to be purchased is to be transferred. This check will include a search of all available criminal history record information, including national, state, and local indices. The Department of State Police will make inquiry of the local law-enforcement agency or agencies having jurisdiction in the applicant's and any transferees' place or places of residence within the past five years as to the applicant's qualifications for ownership and possession of the handgun or handguns sought to be purchased prior to approval of any transaction.

§ 3.2. The enhanced background check shall be conducted without delay, and shall be completed as soon as possible after receipt of the application at Administrative Headquarters. However, in case of electronic failure or other circumstances beyond the control of the State Police, the State Police shall complete the enhanced background check as soon as possible after the circumstances causing the delay have been corrected or overcome.

§ 3.3. Before granting a multiple purchase certificate, the Department of State Police or its agents may make such inquiry of the applicant and others as the Department of State Police may deem necessary to determine that the application is bonafide and that the information contained in the application is true and accurate. The Department of State Police shall not issue a multiple purchase certificate until satisfied that the requirements of § 18.2-308.2:2, Code of Virginia, and these regulations have been met.

Article 4. Certificate.

§ 4.1. Upon being satisfied that the proposed purchase meets the requirements of § 18.2-308.2:2, Code of Virginia, and these regulations, the Department of State Police shall forthwith issue or authorize its agent to issue to the applicant a nontransferable certificate which shall be valid for seven days from the date of issue, authorizing the purchase of a specified number and type of handguns. The State Police or its agent shall make one attempt to conta

Emergency Regulations

the applicant to notify him of the issuance or denial of the certificate at a telephone number provided by the applicant at the time of delivery of the application.

§ 4.2. Upon delivery of the certificate issued pursuant to § 4.1 of these regulations, a prospective transferor may proceed to transfer the number and type of handguns specified in the certificate, provided the transferor has complied with the provisions of § 18.2-308.2:2, subsection B, of the Code of Virginia. If the transferor is a dealer in firearms as defined in § 54.1-4200 of the Code of Virginia, the certificate shall be surrendered to the transferor by the applicant prior to the consummation of such sale, and shall be kept on file at the transferor's place of business for a period of not less than two years. If the transferor is not a dealer in firearms, the transferor shall attest in writing on the reverse of the certificate, indicating the date the transfer was completed, and the transferee shall return the certificate to the office which issued the certificate. The returned certificate shall then be forwarded to State Police Administrative Headquarters.

Article 5. Appeals.

§ 5.1. Any person denied a certificate for the purchase of more than one handgun within any thirty-day period may appeal such denial to the Superintendent of State Police. Such appeal shall be in writing, setting forth any grounds which the applicant wishes to be considered. The Superintendent of State Police shall consider each such appeal, and notify the applicant in writing of his decision within five business days after the day on which the appeal is received.

Article 6. Agents.

§ 6.1. Any local law-enforcement agency may request that it be certified as an agent for the Department of State Police to receive applications and issue certificates pursuant to these regulations. Any such request shall be in writing, directed to the Superintendent of State Police, and shall designate a particular individual or individuals within the local agency who will perform these duties. Only such designated individuals shall accept applications or issue certificates. Prior to certification of a local law-enforcement agency as an agent, each of its designated individuals must successfully complete a four-hour training course provided by the Department of State Police. Upon receipt of a request from a local law-enforcement agency and the successful completion of the prescribed training course by its designated individuals, the Superintendent of State Police shall certify such agency as an agent for the Department of State Police to receive applications and issue certificates pursuant to these regulations.

§ 6.2. Any agent certified as provided in § 6.1 of these regulations shall have the authority to receive applications and issue certificates pursuant to these regulations, in accordance with policies and procedures prescribed by the

Department of State Police.

Article 7. Replacement of Lost or Stolen Handgun.

§ 7.1. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be replaced immediately may purchase a single handgun without obtaining the certificate required by these regulations, even if the person has previously purchased a handgun within a thirty-day period, provided the person provides the transferor with a summary of the official police report from the law enforcement agency that took the report of the lost or stolen handgun on the form set forth in § 8.3 of these regulations. If the official police report from the law-enforcement agency that took the report of the lost or stolen handgun contains all the information required by the form set forth in § 8.3 of these regulations, then the law-enforcement agency may attach a copy of the official police report to the form set forth in § 8.3 of these regulations in lieu of completing the summary on the form.

Article 8. Forms.

§ 8.1. Form SP-207. Multiple Handgun Purchase Application.

§ 8.2. Form SP-208. Multiple Handgun Purchase Certificate.

§ 8.3. Form SP-194. Lost/Stolen Handgun Report.

§ 8.4. Form SP-65 (Revised). Virginia Firearms Transaction Record.

SP-207, 7-1-93

NO. MP-

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF STATE POLICE
MULTIPLE HANDGUN PURCHASE APPLICATION

SECTION A. MUST BE COMPLETED PERSONALLY BY TRANSFEREE (BUYER). (See instructions on back).

1. Transferee's (Buyer's) Name (Last, First, Middle)	2. Driver's License No./ DMV I. D. Card No.	3. <input type="checkbox"/> Male <input type="checkbox"/> Female	4. Height	5. Weight	6. Race
7. Current Address (No., Street, City, State, Zip Code)	8. Date of Birth Month Day Year	9. Place of Birth (City, State or City, Foreign Country)		10. Are you a citizen of the United States? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Telephone No. ()	Previous Address (No., Street, City, State, Zip Code)		If No., enter immigration No.		

11. Number and Type of Handgun(s) to be Purchased	THIS BLOCK TO BE COMPLETED BY ISSUING AGENCY ONLY
Pistol(s) _____ Revolver(s) _____	Date Certificate Issued: _____ Date Certificate Expires: _____

CERTIFICATION OF TRANSFEREE (BUYER). AN UNTRUTHFUL ANSWER MAY SUBJECT YOU TO CRIMINAL PROSECUTION.

12. Provide Brief Statement of the Circumstances Requiring Additional Handgun (s) Purchase:

13. I hereby swear or affirm that the information above is true and correct. I understand that the making of a false oral or written statement or the exhibiting of any false or misrepresented identification with respect to this application is a crime punishable as a felony.

TRANSFEREE'S (BUYER'S) SIGNATURE: _____ Date: _____

Sworn to and Subscribed before me this _____ day of _____, 19 _____.

Signature of Official Administering Oath: _____

Title: _____ Commission Expiration Date: _____

SECTION B. MUST BE COMPLETED BY ISSUING AGENCY. (See instructions on back).

14. Additional Handgun Purchase Shall Be Used For: (Check Appropriate Box).

A. <input type="checkbox"/> Lawful Business Use	C. <input type="checkbox"/> Collector Series, For Collectors
B. <input type="checkbox"/> Lawful Personal Use	D. <input type="checkbox"/> Bulk Purchase From Estate Sales

15. Multiple Handgun Purchase Certificate Approved Approval No. _____ If Not Approved, Explain: _____

Not Approved

Signature of Issuing Official _____ Issuing Agency and Address: _____

Date: / /

ORIGINAL - STATE POLICE

NOTICE

The Multiple Handgun Purchase Application, Section A, shall be completed in full by the transferee (buyer) and approved by the issuing agency prior to the issuance of a Multiple Handgun Certificate pursuant to 18.2-308.2:2 (N) 1, Code of Virginia.

INSTRUCTIONS TO TRANSFEREE (BUYER)

The transferee (buyer) applying to purchase multiple handguns will in every instance personally complete Section A of this form. However, if the buyer is unable to read and/or write, the answers may be written by other persons excluding the transferor (seller). Two persons (other than the seller) will sign as witnesses to the buyer's answers and signature. The transferee (buyer) must certify under oath that the information provided on the form is true and correct.

If the handgun (s) being purchased is a gift, the name, race, sex, and date of birth of the recipient (s) shall be included in the statement on line 12 of the form.

Additional space provided for previous addresses (last five years)

Address: _____

Address: _____

Address: _____

Address: _____

Address: _____

INSTRUCTIONS TO ISSUING AGENCY

Upon receiving the application form, the issuing official will ensure that the transferee (buyer) applying for a Multiple Handgun Purchase Certificate provides appropriate identification as provided for in 18.2-308.2:2 (B) 1.

SP-208, 7-1-93

NO. MP- _____

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF STATE POLICE
MULTIPLE HANDGUN PURCHASE CERTIFICATE

Transferee's (Buyer's) Name (Last, First, Middle)	Driver's License No./ DMV I. D. Card No.	<input type="checkbox"/> Male <input type="checkbox"/> Female	Height	Weight	Race
Current Address (_____, _____, State, Zip Code)	Date of Birth Month Day Year	Place of Birth (City, State or City, Foreign Country)	Are you a citizen of the United States? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Telephone No. (_____) _____	Previous Address (No., Street, City, State, Zip Code)		If No, enter Immigration No. _____		
Number and Type of Handgun(s) to be Purchased: Pistol(s) _____ Revolver(s) _____		Date Certificate Issued: _____ Date Certificate Expires: _____			

Certificate Valid for Seven Days
from Date of Issuance

Approval Signature _____

INSTRUCTIONS TO TRANSFEROR (SELLER)

The Multiple Handgun Purchase Certificate shall be surrendered by the transferee (buyer) prior to the consummation of such sale and shall be attached to the Virginia Firearms Transaction Form (SP-65), and shall be kept on file at the transferor's place of business for inspection as provided for in 54.1-4201 (C), Code of Virginia, for a period of not less than two years.

The Multiple Handgun Purchase Certificate shall be valid for seven days from date of issuance.

I hereby certify that the Firearm(s) approved for purchase was/were transferred on _____
(Date of Transfer)

Transferor's Signature: _____

Date: _____

Emergency Regulations

Title of Regulation: VR 545-01-12. Regulations Governing the Creation of a Criminal Firearms Clearinghouse.

Statutory Authority: § 52-25.1 of the Code of Virginia.

Effective Dates: July 1, 1993, through June 30, 1994.

Summary:

Chapter 834 of the 1993 Acts of Assembly (HB 1885) enacted Section 52-25.1 of the Code of Virginia by adding a section concerning the reporting of seized, forfeited, found, or confiscated firearms. The Superintendent of State Police is to establish and maintain within the Department of State Police a Criminal Firearms Clearinghouse as a central repository of information on all firearms seized, forfeited, found, or otherwise coming into the possession of any state or local law enforcement agency which are believed to have been used in the commission of a crime. The Superintendent is to adopt and promulgate regulations prescribing the form for reporting this information and the time and manner of the submission of this information. The emergency regulations establish the requirements and procedures for reporting this information.

Basis of Emergency:

The effective date of the enabling legislation did not allow sufficient time to comply with the provisions of the Administrative Process Act (APA).

During the term of these emergency regulations, the Superintendent of State Police will promulgate permanent regulations following the APA.

/s/ Carl R. Baker
Superintendent of State Police
Date: April 8, 1993

Approved:

/s/ O. Randolph Rollins
Secretary of Public Safety
Date: April 27, 1993

Approved:

/s/ Lawrence Douglas Wilder
Governor
Date: May 18, 1993

I acknowledge receipt of this emergency regulation to be effective July 1, 1993.

/s/ Joan W. Smith
Registrar of Regulations
Date: May 25, 1993

VR-545-01-12. Regulations Governing the Creation of a Criminal Firearms Clearinghouse.

Article 1
Definitions

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

Virginia Firearms Clearinghouse - the central repository for information gathered pursuant to Section 52-25.1 of the Code of Virginia

VCIN - Virginia Criminal Information Network

Article 2
Virginia Firearms Clearinghouse

§ 2.1. The Department of State Police will create a Clearinghouse as a central repository for information of any firearm that is seized, forfeited, found, or otherwise coming into the possession of any state or local law enforcement agency which is believed to have been used in the commission of a crime.

§ 2.2. The Clearinghouse will be known as the "Virginia Firearms Clearinghouse" and shall be referred to as such.

Article 3
Method of Reporting

§ 3.1. A state or local law enforcement agency that has seized, forfeited, found, or otherwise recovers a firearm in accordance with Section 52-25.1 of the Code of Virginia shall notify the Department of State Police by a form provided by the State Police (SP-187). The form will contain the following information: 1) serial number or other identifying information on the firearm, 2) a brief description of the circumstances under which the firearm came into the possession of the law enforcement agency, including the crime which was or may have been committed with the firearm, 3) the name or other identifying information on the person from whom the firearm was taken, 4) the original place of sale and the chain of possession of the firearm, 5) the disposition of the firearm and any other information the Superintendent may require.

§ 3.2. The information required on the form should be submitted to the Clearinghouse via VCIN (if available), as soon as possible after coming into the possession of the agency, and should include all available information at the time of submission.

§ 3.3. A completed form (SP-187) will be sent to the Department of State Police within seven (7) business days once all of the requested information has been obtained. For the purposes of this regulation, the State Police Address will be: Department of State Police, Virginia Firearms Clearinghouse, P.O. Box 85141, Richmond,

Virginia 23285-5141.

§ 3.4. The form provided by the State Police will be the only form accepted by the State Police. Locally produced forms will be unacceptable.

§ 3.5. The State Police will provide copies of the Virginia Firearms Clearinghouse form (SP-187) to all state and local law enforcement agencies by July 1, 1993.

Article 4
Forms

§ 4.1. Form SP-187. Virginia Firearms Clearinghouse.

SP-187 7-1-93

**VIRGINIA DEPARTMENT OF STATE POLICE
CRIMINAL FIREARMS CLEARINGHOUSE**

(All entries on this form must be typewritten or in ink)

GENERAL INFORMATION				
1. Date of Report	2. Date Administrative Message Sent	3. Administrative Message Number		
4. Agency Reporting	5. ORI Number	6. Case Number		
7. Investigating Officer Last Name	8. First Name	9. MI		
DESCRIPTION OF FIREARM				
10. Manufacturer	11. Type	12. Model		
13. Caliber or Gauge	14. Magazine or Cylinder Capacity	15. Barrel Length		
16. Finish	17. Serial Number	18. Country of Origin		
19. Other Identifying Marks				
LAW ENFORCEMENT POSSESSION INFORMATION				
20. L/E Possession Date		<input type="checkbox"/> Seized Forfeited <input type="checkbox"/> Found Other (Explain)		21. Disposition of Firearm
22. Crime Committed with the Firearm		23. Brief Description Under which the firearm came into possession of the law enforcement agency		
PERSON FROM WHOM FIREARM WAS TAKEN				
24. Last Name		25. First Name		26. MI
27. Address		28. City	29. State	30. Zip Code
31. Date of Birth	<input type="checkbox"/> Adult <input type="checkbox"/> Juvenile	33. Social Security Number	34. Race	35. Sex
ORIGINAL FIREARM PURCHASE INFORMATION				
36. Transaction Date	37. Dealer Name		38. FFL Number	
39. Address		40. City	41. State	42. Zip Code
43. Original Purchaser Last Name		44. First Name		45. MI
46. Address		47. City	48. State	49. Zip Code
CHAIN OF POSSESSION OF FIREARM AFTER INITIAL PURCHASE (Most Recent First)				
50. Acquisition Date	51. Last Name	52. First Name	53. MI	
54. Address		55. City	56. State	57. Zip Code
58. Acquisition Date	59. Last Name	60. First Name	61. MI	
62. Address		63. City	64. State	65. Zip Code
66. Acquisition Date	67. Last Name	68. First Name	69. MI	
70. Address		71. City	72. State	73. Zip Code
74. Signature (Agency Head or Designee)				Date

Forward original form to the Firearms Clearinghouse within 7 days after trace is completed

INSTRUCTIONS FOR COMPLETING CRIMINAL FIREARMS CLEARINGHOUSE FORM

GENERAL INFORMATION (1 through 9) - Self Explanatory.

DESCRIPTION OF FIREARM (10 through 19)

10. **Manufacturer:** Enter the entire name shown on firearm.

11. **Type:** Enter the NCIC Weapon Type Code (Refer to NCIC Code Manual, Part 3, Section 3)

12. **Model:** The model designation can be a letter or numerical designation, brand name, or a combination thereof.

13. **Caliber or Gauge** (Refer to NCIC Code Manual, Section 1, Part 3)

14. **Magazine or Cylinder Capacity:** For revolvers, show the number of cartridges which the cylinder will hold. For pistols, show the magazine capacity, if possible. For derringers, show the number of barrels.

15. **Barrel Length:** Always measure revolvers from the muzzle to the face of the cylinder; pistols from the muzzle to the face of the bolt with the slide in the forward position. Derringers are measured from the muzzle to the face of the bolt with the frame and barrel components locked. Measure to the nearest one-half inch and record in decimal point format, i.e., 4.5 inches.

16. **Finish:** Enter the NCIC Weapon Color and Finish Code (Refer to NCIC Code Manual, Part 3, Section 4)

17. **Serial Number:** Include letter prefix, suffix, code numbers, or letters over or under the serial number.

18. **Country of Origin:** Enter the NCIC Country Code (Refer to NCIC Code Manual, Part 6, Section 2). The Country may appear under the grips or other hidden locations.

19. **Other Identifying Marks:** Any markings, including importers name, grip medallion markings, proof-marks, grip composition, and type. For semiautomatic pistol, indicate if exposed-hammer or hammerless type. For revolver, indicate if side-swing cylinder, top-break, or solid frame, with or without loading gate. Also indicate if with or without side-ejector housing. State if revolver has a spur trigger or trigger guard.

LAW ENFORCEMENT POSSESSION INFORMATION (20 through 23)

20. **L/E Possession Date:** Enter the date the firearm came into the possession of the Law Enforcement Agency and check whether the firearm was seized, found, forfeited, or other. If other is checked, enter a short description.

21. **Disposition of Firearm:** Explain the disposition of the firearm, i.e., Destroyed, Forfeited, etc.

22. **Crime Committed with the Firearm:** Use appropriate Virginia Code Section, i.e., 18.2-30.

23. **Brief Description Under which the firearm came into possession of the law enforcement agency:** Self explanatory.

PERSON FROM WHOM FIREARM WAS TAKEN (24 through 35) - Self Explanatory

ORIGINAL FIREARM PURCHASE INFORMATION (36 through 49) - Self Explanatory

CHAIN OF POSSESSION OF FIREARM AFTER INITIAL PURCHASE (50 through 73)

Show the chain of possession after original sale, listing names, addresses and acquisition dates of all owners of the firearm. List the most recent first.

To trace the original sale of this firearm, contact the ATF National Tracing Center, 3361F 75th Avenue, Landover, MD 20785. Telephone Number is (301) 436-8159.

MAIL TO: Department of State Police
Virginia Firearms Clearinghouse
P.O. Box 85141
Richmond, VA 23285-5141

Emergency Regulations

BOARD OF YOUTH AND FAMILY SERVICES

Title of Regulation: VR 690-80-001. Emergency Minimum Standards for the Detention of Juveniles in Jails and Lockups.

Statutory Authority: §§ 66-10 and 16.1-249 of the Code of Virginia.

Effective Dates: May 26, 1993, through May 25, 1994.

Preamble:

These Emergency Minimum Standards for the Detention of Juveniles in Jails and Lockups are promulgated by the Board of Youth and Family Services until permanent standards shall have been approved under the provisions of the Administrative Process Act. These Standards are issued on an emergency basis because certifications of certain jails and lockups, under standards previously issued by the State Board of Corrections, will have expired before new permanent regulations can take effect. These emergency standards shall become effective when signed by the Governor, and shall take effect until permanent standards become effective, but in no case for longer than 12 months.

Adopted by the Board of Youth and Family Services, April 8, 1993, and revised at the Board meeting on May 13, 1993.

/s/ Barbara Hickey, Chair
Date: May 18, 1993

APPROVED:

/s/ O. Randolph Rollins
Secretary of Public Safety
Date: May 18, 1993

APPROVED:

/s/ L. Doulgas Wilder
Governor
Date: May 21, 1993

FILED:

/s/ Joan W. Smith
Registrar of Regulations
May 26, 1993

VR 690-80-001. Emergency Minimum Standards for the Detention of Juveniles in Jails and Lockups.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Active supervision" means that staff are awake, alert, monitoring the behavior and needs of the residents in his care.

"Annually" means an action performed each calendar year.

"Audit" means the determination of facility compliance with standards through and examination of records and operations by a team of qualified professionals.

"Certification" means an official approval by the Board of Corrections or the Board of Youth and Family Services which allows a facility to operate.

"Chief Administrator" means the individual responsible for the overall operation of the jail or lockup facility and program, and the implementation of these standards.

"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 crisis situations and designed to reduce or to eliminate the immediate crisis.

"Department" means the Department of Youth and Family Services.

"Detainee" means any person confined but not serving a sentence.

"Health-trained staff person" means personnel without health care licenses who are trained in limited aspects of health care, to include at a minimum, recognition of the signs and symptoms of drug and alcohol intoxication, illness, and suicide prevention techniques.

"Inmate records" means written information concerning the individual's personal, criminal and medical history, behavior and activities while in custody.

"Jail" means a local or regional correctional facility as defined in § 53.1-1 except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing.

"Juvenile" means a person less than 18 years of age.

"Lockup-room" or "lockup" means a facility whose primary use is to detain persons for a short period of time, as determined by the Board.

Emergency Regulations

"Mechanical restraint" means the application of devices as a means of physically restraining or controlling a youth's behavior, such as handcuffs, shackles or strait jackets.

"Medical screening" means an observation and interview process within the booking procedure designed to obtain pertinent information regarding an individual's medical or mental health condition.

"Regulatory authority" means the Board of Youth and Family Services or its designated representatives.

"Release" means transfer of youth and the authority to supervise that youth to another agency or individual.

"Right" means that to which one has a natural, legal or moral claim.

"Serious Incident" means a harmful or potentially harmful situation involving staff or youth. This includes but is not limited to death, fire, assault, escape, serious injury, and allegations or evidence of child abuse.

"Separation" means that confined juveniles have no regular contact with incarcerated adults. Regular contact is defined as sight-and-sound contact with incarcerated adults, including trustees. By sound separation it is meant that no conversation is possible.

"Weapons" means an instrument designed or intended to disable or incapacitate, including but not limited to: firearms, knives, mace, nightsticks, blackjacks, and stun guns.

§ 1.2. Legal Base.

The Code of Virginia is the foundation for the development of Minimum Standards for the Detention of Juveniles in Jails and Lockups. Section 16.1-249.D. of the Code of Virginia provides that juveniles can only be housed in a jail approved by the State Board of Youth and Family Services. Section 66-10 of the Code grants the Board the authority to promulgate regulations to carry out its duties under state law.

§ 1.3. Board of Corrections Certification Required.

Only jails and lockups in compliance with all applicable Life, Health, Safety standards and certified by the Board of Corrections shall be considered for certification for the holding of juveniles by the Board of Youth and Family Services.

§ 1.4. Automatic Decertification.

Jails and lockups whose certification by the Board of Corrections expires or is revoked for any reason, shall automatically be decertified by the Board of Youth and Family Services.

PART II. ADMINISTRATION.

§ 2.1. Responsibility for Application.

The chief administrative officer of the jail or lockup shall be responsible for applying these standards.

§ 2.2. Reports to Determine Compliance.

The chief administrative officer shall provide to the regulatory authority such logs, manuals, forms, files; and medical, personnel and training records in addition to any other information deemed necessary as it pertains to juveniles that the regulatory authority may require to determine compliance with these standards and applicable statutes.

§ 2.3. Segregation of Juvenile Records.

Records of detained juveniles shall be kept separate from records of adults.

§ 2.4. Certificate to Operate.

The certificate to operate issued by the Board of Youth and Family Services shall be conspicuously posted in an area of the facility open to the public.

§ 2.5. Juveniles' Rights.

Written policy, procedure and practice shall provide that:

A. Juveniles are not subject to discrimination based on race, national origin, color, creed, sex or disability;

B. Juveniles have confidential access to legal counsel;

C. Juveniles are protected from personal injury or abuse, disease, and property damage.

PART III. JUVENILES IN JAILS.

§ 3.1. Telephone Calls.

Written policy, procedure and practice shall grant all juveniles the right to make at least two local or collect long distance telephone calls to family members, attorneys or other approved individuals upon admission to the jail.

§ 3.2. Medical Screening.

Written policy and defined procedure require an initial health screening interview to be performed by trained staff on all juveniles immediately upon arrival at the jail.

§ 3.3 Health Screening Interview.

The health screening interview shall include:

Emergency Regulations

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.

§ 3.4. Intoxication or Withdrawal.

A. Juveniles experiencing severe, life-threatening intoxication (overdose) or withdrawal, or at risk of more severe levels of intoxication or withdrawal, shall be immediately transferred to a licensed hospital.

B. Detoxification shall be done only under medical supervision in accordance with sound medical practices.

§ 3.5. Intoxication or Withdrawal Monitoring and Suicide Prevention.

The jail shall have a written plan for identifying and responding to suicidal juveniles, and juveniles experiencing intoxication and withdrawal to include:

- providing for health trained staff persons as defined in Section 1.1 of these regulations,
- training of staff to recognize verbal and behavioral cues from juveniles that indicate potential suicide;
- monitoring of juveniles who have been identified as potentially suicidal; and

- provisions for a "safe room" which provides for constant visual observation and immediate access by health trained staff when awaiting emergency evaluation.

§ 3.6. Separation from Adult Prisoners.

Juveniles shall be so housed as to be separated by a wall or other barrier which would result in preventing visual contact and verbal communication with adult prisoners or juveniles transferred to the circuit court. Juveniles held for no more than 6 hours per § 16.1-249.F shall also be separated from juveniles transferred to the circuit court.

§ 3.7. Active Supervision and Contact.

The jail shall have one or more persons on duty at all times responsible for auditory and visual contact with each juvenile at least every 30 minutes. Juveniles suspected of acute, self-destructive behavior shall be immediately transferred to a licensed hospital. Juveniles exhibiting violent behavior shall be visually monitored at least every fifteen minutes. Documentation of these contacts shall be reviewed daily by the chief administrator or his designee and maintained for three years.

§ 3.8. Same-Gender Supervision.

Routine visual supervision of juveniles during bathing, dressing or toileting activities by staff of the opposite sex shall be prohibited.

§ 3.9. Staff Training.

Staff assigned to supervise juvenile detainees shall receive training specific to working with juveniles mandated by the Board of Criminal Justice Services prior to assuming supervision.

§ 3.10. Light and Heat.

All housing and activity areas for juvenile detainees shall provide for lighting and heating.

§ 3.11. Water, Showers, Toilets.

All housing areas for juvenile detainees shall have toilets, showers, drinking water and wash basins with hot and cold running water accessible to the juvenile.

§ 3.12. Isolation and Segregation.

Isolation cells or segregation within a cellblock shall be utilized only as a disciplinary measure or as a protection of the juvenile from other juveniles. Juveniles shall be visually monitored every 15 minutes during the time they are in isolation or segregation.

PART IV. JUVENILES IN LOCKUPS AND WARDS FOR

Emergency Regulations

JUVENILES.

§ 4.1. Staff Training.

Staff assigned to supervise detainees shall receive the following training prior to assuming supervision, and shall be re-trained or recertified within the time periods indicated below:

1. CPR (to be renewed annually)
2. Multimedia First Aid (to be renewed every three years)
3. Suicide Prevention (to be renewed every three years)
4. Crisis Intervention Techniques (to be renewed annually)
5. Adolescent Behavior (to be renewed every three years)

§ 4.2. Time Limit.

Juveniles may be detained for no longer than six hours in a temporary lock-up room or ward for juveniles.

§ 4.3. Separation from Adults.

The lock-up room or ward designated for the temporary holding of juveniles shall be totally separate and removed from adults or juveniles transferred to the circuit court.

§ 4.4. Visual Monitoring.

The lock-up room or ward designated for the temporary holding of juveniles shall be visually monitored every 15 minutes during the time the juvenile is being held.

§ 4.5. Transfer to Juvenile Facility.

A. The juvenile's record shall contain documentation that efforts were made to make arrangements for the transfer of the juvenile to a juvenile facility.

B. This documentation shall include the following:

1. Name of persons contacted. Time and date of contact.
2. Results of contact to include reasons for refusal to assist in the transfer of the juvenile if applicable.
3. Time and date of transfer, signature of authority to whom juvenile released.
4. Destination of juvenile.

STATE CORPORATION COMMISSION

BUREAU OF INSURANCE

April 27, 1993

Administrative Letter 1993-8

Attached is a sheet of additional instructions (See Exhibit 1) to facilitate accurate completion of this special data call.

/s/ Steven T. Foster
Commissioner of Insurance

TO: All Companies Licensed to Write Commercial Liability Insurance That Reported Written Premiums for 1991 for Certain Potentially Noncompetitive Lines and Subclassifications of Commercial Liability Insurance

RE: Special Data Call DUE JULY 1, 1993 in Support of a Report to the General Assembly Pursuant to Section 38.2-1905.1.A of the Code of Virginia for Commercial Contractors Liability, Products and Completed Operations Liability, and Municipal Liability Insurance

Administrative Letter 1993-1, dated April 9, 1993, notified companies that the supplemental reports for potentially noncompetitive lines and subclassifications of commercial liability insurance as required by Virginia Code Section 38.2-1905.2 are not required to be filed until May 1, 1994. Administrative Letter 1993-1 also provided notification of a special data call due July 1, 1993 for commercial contractors liability, products and completed operations liability, and municipal liability insurance.

To collect the data requested by this administrative letter, the SCC is using the format of the attached report form. The format has not been substantially changed from the supplemental report forms adopted by the SCC in 1989, 1990, and 1992. However, pursuant to Section 38.2-1905.2 of the Code of Virginia, the reports must be submitted in machine-readable format. A computer diskette is enclosed for that purpose.

Insurers shall report data in the detail prescribed by the report format. If some information is not available, insurers should estimate appropriate figures to complete the report. Items allocated from countrywide data must be allocated in the same manner as for the NAIC Annual Statement, pursuant to Section 38.2-1905.2.c of the Code of Virginia.

If you have any questions regarding this data call, please contact:

Eric Lowe
Insurance Market Examiner
Bureau of Insurance
P. O. Box 1157
Richmond, VA 23209
Telephone: (804) 371-9628

Virginia Code Section 38.2-218 provides that any person who knowingly or willfully violates any provision of the insurance code shall be punished for each violation by a penalty of not more than \$5,000. Failure to file this report in a substantially complete and accurate manner by the due date may be considered a willful violation and may subject the insurer to an appropriate penalty.

State Corporation Commission

SPECIAL DATA REPORT REQUIRED
FOR CERTAIN LINES OR SUBCLASSIFICATIONS OF COMMERCIAL LIABILITY INSURANCE

THIS REPORT IS DUE ON OR BEFORE JULY 1, 1993, AT THE STATE CORPORATION COMMISSION BUREAU OF INSURANCE, MAILING ADDRESS: P. O. BOX 1157, RICHMOND, VIRGINIA 23209, OR STREET ADDRESS: 1300 E. MAIN STREET, RICHMOND, VIRGINIA 23219.

All insurers licensed to write the forms of insurance defined in Section 38.2-117 (Personal Injury Liability) and 38.2-118 (Property damage liability) that reported written premiums in 1991 for Products/Completed Operations Liability, Commercial Contractors Liability, or Municipal Liability shall file a report showing their direct experience in the Commonwealth attributable to the line or subclassification of liability insurance below.

For the market designated, provide the information requested:

A. Market Number and Name: _____

B. Insurer: _____

C. NAIC #: _____

D. Group Name: _____

E. Group NAIC #: _____
 (Each insurer must report separately;
 group reports are not permitted.)

NOTE:

- All figures are to be reported in whole numbers or dollars. Do not include dollar signs, decimal points, or cents.
- For item 1, policies written for other than a 12 month term should be adjusted to an annual basis.
- Losses exclude all loss adjustment expenses which are reported in item B 9.
- Loss adjustment expenses reported in item B 8 should include incurred but not reported loss adjustment expenses.

	Calendar Year (Except As Otherwise Specified)				
	1988	1989	1990	1991	1992
1. Number of policies written	_____	_____	_____	_____	_____
2. Direct premiums written	_____	_____	_____	_____	_____
3. A. Direct premiums earned	_____	_____	_____	_____	_____
B. Net premiums earned	_____	_____	_____	_____	_____
4. Direct losses incurred	_____	_____	_____	_____	_____
A. Direct losses paid during the calendar year:	_____	_____	_____	_____	_____
(1) for the current accident year	_____	_____	_____	_____	_____
(2) for prior accident years	_____	_____	_____	_____	_____
B. Reserves for reported losses at the end of the calendar year:	_____	_____	_____	_____	_____
(1) for the current accident year	_____	_____	_____	_____	_____
(2) for prior accident years	_____	_____	_____	_____	_____
C. Reserves for reported losses at the end of the previous calendar year	_____	_____	_____	_____	_____
D. Reserves for incurred but not reported losses at the end of the calendar year:	_____	_____	_____	_____	_____
(1) for the current accident year	_____	_____	_____	_____	_____
(2) for prior accident years	_____	_____	_____	_____	_____

E. Reserves for incurred but not reported losses at the end of the previous calendar year _____

F. Accident year incurred losses $[A(1) + B(1) + C(1)]$ _____

G. Calendar year incurred losses $[A(1) + A(2) + B(1) + B(2) + C + D(1) + D(2) - E]$ _____

5. Number of claims closed with payment during the calendar year _____

6. Number of open claims at the end of the calendar year _____

7. Net investment gain (loss) including realized capital gains generated by the line or subclassification of business including premium, loss and loss expense reserves. _____

8. A. Direct underwriting expenses incurred in producing the written premium (line 2 (direct premium written)):

(1) commissions	_____
(2) general expenses	_____
(3) other acquisition expenses	_____
(4) premium taxes, licenses and fees	_____
(5) total (sum of all parts in question 8 A)	_____

B. All direct loss adjustment expenses incurred on a calendar year basis: _____

9. Have you sought to write or obtain new business within this line or subclassification within the past year?

Yes	_____	No	_____
-----	-------	----	-------

10. A. If applicable to this market definition, please provide the Base Service Organization (BSO), filing designation number (i.e., GBO-BSO), etc., the amount of filed deviation (not including the impact of experience and schedule rating programs), if any, and the percentage of 1992 premium written using the particular filing:

BSO	_____	Filing designation	_____	Deviation Factor*	_____	X 1992 Premium Written	_____
	_____		_____		_____		_____
	_____		_____		_____		_____
	_____		_____		_____		_____

*This factor should be expressed as a final rating factor, i.e. 1.15 or .85

B. If an RSO filing applies to this market definition, but the Company used independent rates for all or part of this market definition, what percent of reported 1992 premiums were written using independent rates? _____ %

NOTE: The sum of the percents of written premium in A and B should total 100%.

EXHIBIT 1

Page 1

REGISTRY OF SCHEDULES
SPECIAL DATA CALL INSTRUCTIONS

The following should be utilized to assure the proper completion and submission of the special data call reports, which must be received by the Commission on or before July 1, 1993.

C. Do you apply schedule, expense, experience, and/or package modifications to eligible risks?

1. Schedule	Yes	_____	No	_____
2. Expense	Yes	_____	No	_____
3. Experience	Yes	_____	No	_____
4. Package Modification	Yes	_____	No	_____

D. If yes, indicate:

1. The maximum schedule credits and/or debits allowed (-) _____ X to (+) _____ X
2. The maximum expense credits allowed (-) _____ X
3. The package modification factor _____*

*this factor should be expressed as a final rating factor, i.e. 1.15 or .85. Enter only one factor. If you have different factors for different categories, please give a weighted average for all subclasses within this line.

Signed: _____
Telephone: _____
Date: _____

Title: _____
Print Name: _____

1. The report(s) must be submitted on diskette; however, companies that cannot comply may submit the appropriate paper reports. These reports must be obtained by contacting Eric Lowe at the address on page 1 of this administrative letter.
2. Insurers submitting data on the diskette will only be required to report 1992 data, unless data from previous years is being amended. Insurers that submit paper reports must provide data for all five years (1988 through 1992) for all questions on the reporting form. Paper forms received without all five years of data will be considered substantially incomplete, invoking possible penalties as outlined on page 1 of this Administrative Letter. All paper reports must be typed. Handwritten reports will not be accepted.
3. Each special data call report must contain the individual company name, NAIC#, group name and group NAIC#. REPORTS ARE TO BE FILED FOR INDIVIDUAL COMPANIES (DO NOT SUBMIT AGGREGATED GROUP REPORTS).
4. Submit only one special data call report per market definition. For example, all contractors' subclassifications are considered one market and separate reports should not be submitted for the various subclassifications. (Do not combine markets.)
5. Exhibit 5 must be completed for all companies that reported premiums for 1991, but that have no written premiums in any of the listed market definitions for 1992.
6. Use whole dollars or numbers. Do not include dollar signs, decimal points, or commas in completing the supplemental report. DO NOT OMIT 000'S. Do not use dashes, N/A or leave blanks within the report.
7. Items 1, 2, 3, 5, 6, 7, and 8 of the special data call report shall be reported on a calendar year basis. The subparts of item 4 shall be reported on a calendar or accident year basis as required.
8. Items 4 B, and C do not include incurred but not reported losses (IBNR).

EXHIBIT 1
PAGE 3

Additional Instructions for Completion of
The Special Data Call Reports

REGISTRATION AND LICENSING
CORPORATION DIVISION

Company Description

- A. Market Number and Name.
- B. Market Number.
- C. NAIC Number.
- D. Group Name.
- E. Group NAIC Number.

Definition

Defined by Virginia AL 1995-8.
Exact verbal name of insurer.
NAIC Number for each insurer.
Name of parent company of group.
Group NAIC Number.

Definition

A count of policies written in a calendar year within a market definition. The count should be annualized. Policies should be counted once in each year and 3 year policies should be counted in each year.

QUESTIONS

NOTE: All accident year data should be evaluated as of the end of each calendar year being reported.

1. Number of Policies Written.
2. Direct Premiums Written.
3. A. Direct Premiums Earned.
B. Net Premium Earned.
4. A.(1) Direct Losses Paid During the Calendar Year for the Current Accident Year.

A.(2) Direct Losses Paid During the Calendar Year for Prior Accident Years.

B.(1) Reserves for Reported Losses at the End of the Calendar Year for the Current Accident Year.

B.(2) Reserves for Reported Losses at the End of the Calendar Year for Prior Accident Years.

C. Reserves for Reported Losses at the End of the Previous Calendar Year.

EXHIBIT 1
PAGE 2

9. Losses exclude all loss adjustment expenses which are reported in item 8 B.
10. Loss adjustment expenses reported in item 8 B should include any incurred but not reported loss adjustment expenses.
11. For item 1, policies written for other than a 12 month term should be adjusted to an annual basis.
12. Additional Instructions for completion of the special data call reports are attached.

REGISTRATION AND LICENSING
CORPORATION DIVISION

EXHIBIT 1
PAGE 4

D.(1) Reserves for Incurred But Not Reported Losses at the End of the Calendar Year for the Current Accident Year.	IBNR reserves at the end of the calendar year are divided between (1) those in which the accident year is the same as the calendar year and (2) other accident years. Where the calendar year and accident year are the same, this IBNR amount should be reported under Question 4 D.(1). (This figure should exclude Loss Adjustment Expense.)
D.(2) Reserves for Incurred But Not Reported Losses at the End of the Calendar Year for Prior Accident Years.	IBNR reserves at the end of the calendar year are divided between (1) those in which the accident year is the same as the calendar year and (2) other accident years. Where the calendar year and accident year are NOT the same, this reserve amount should be reported under Question 4 D.(2). (This figure should exclude Loss Adjustment Expense.)
E. Reserves for Incurred But Not Reported Losses at the End of the Previous Calendar Year.	The sum of Questions 4 D.(1) and 4 D.(2) equals the total IBNR reserves at the end of the calendar year.
F. Accident Year Incurred Losses.	Sum of Questions 4 D.(1) and 4 D.(2) for the prior year end.
G. Calendar Year Incurred Losses.	Sum of questions 4 A.(1), 4 B.(1) and 4 D.(1).
5. Number of Claims Closed With Payment During the Calendar Year.	Sum of questions 4 A.(1), 4 A.(2), 4 B.(1), 4 B.(2), 4 D.(1), and 4 D.(2), minus 4 C. and 4 E.
6. Number of Open Claims at the End of the Calendar Year.	A count of claims with indemnity and/or medical payments only.
7. Net Investment Gain (Loss).	Self defining.
8. A. Direct Underwriting Expenses Incurred.	Self defining.
B. All Direct Loss Adjustment Expenses Incurred During Each Calendar Year.	Self defining.
9. Seeking to write new business?	This question applies to experience year 1992 only.
10. Rating Information Questions	These questions apply to experience year 1992 only.

EXHIBIT 2

PAGE 1

SPECIAL DATA CALL FOR REPORTS FOR CERTAIN LINES OR SUBCLASSIFICATIONS OF LIABILITY INSURANCE PURSUANT TO VIRGINIA CODE SECTION 38.2-1909

REPORTING TO REGULATORS

Market Number and Name	Market Definitions Commercial Statistical Plan (CSP) Classes
87013 Products and Completed Operations Liability	All subline 316 and 336 classes
91001 Commercial Contractors Liability including Asbestos Abatement Contractors Liability	See Exhibit 3
91003 Municipal Liability including: Law Enforcement Agencies Liability-- Public Housing Liability Public Officials Errors and Omissions Liability-- School Board Errors and Omissions Liability-- Sewage Treatment Plant Liability	See Exhibit 4 CSP Code 73132 CSP Code 73131 All Classes* See Exhibit 4

The above market definitions are to be used as a guide in defining specific markets which are required to be reported. Companies should also report the required information for policies written under any comparable classification in use by the individual company.

* NOTE: The ISO CSP does not have specific classes for this market.

EXHIBIT 3

Page 1

REGISTRAR OF REGULATIONS
 COMMERCIAL CONTRACTORS LIABILITY - 1976

Class Code			
Subline	Old	New	Description
313	17140*		Air Conditioning, Heating, or Refrigeration Systems or Combined Heating and Air Conditioning Systems - installation, servicing and repair - including shop and retail stores or display rooms * Code 17140 includes "Gas Appliances or Equipment - household type - installation, servicing or repair"
334		91111	Air Conditioning Systems or Equipment Dealers or distributors and installation, servicing or repair
334		95647	Heating or Combined Heating and Air Conditioning System or Equipment - dealers or distributors and installation, servicing or repair - no liquefied petroleum gas (LPG) equipment sales or work
334		95648	Heating or Combined Heating and Air Conditioning Systems or Equipment - dealers or distributors and installation, servicing or repair - Not Otherwise Classified
313	16135		Airport Runway or Warming Apron Construction, Paving or Repaving
334		91125	Airport Runway or Warming Apron - paving or repaving, surfacing, resurfacing or scraping
334		95630	Asbestos Abatement Contractors
313	76992		Boiler Inspecting or Scaling

EXHIBIT 3

Page 2

COMMERCIAL CONTRACTORS LIABILITY

Class Code			
Subline	Old	New	Description
313	17145*		Boiler Installation or repair - steam * Code 17145 also includes "Tank Erection or Repair - metal - within buildings exclusively"
334		91250	Boiler Inspection, Installation, Cleaning or Repair
334		99572	Tank Construction, Installation, Erection or Repair - metal - not pressurized - within buildings exclusively
334		99573	Tank Construction, Installation, Erection or Repair - metal - pressurized - within buildings exclusively
313	16275*		Bridge or Elevated Highway Construction * Code 16275 also includes "Iron or Steel Erection - bridges"
334		91265	Bridge or Elevated Highway Construction - iron or steel
334		91266	Bridge or Elevated Highway Construction - concrete
313	17835		Building Equipment Installation, Erection, Servicing or Repair - Not Otherwise Classified
313	17885*		Building or Structure Raising, Moving or Underpinning - including incidental shoring * Code 17885 includes "Salvage Operations" and "Underpinning Buildings or Structures"

EXHIBIT 3

Page 3

COMMERCIAL CONTRACTORS LIABILITY

<u>Class Code</u>			
<u>Subline</u>	<u>Old</u>	<u>New</u>	
334	91280		Building Structure - raising or moving
334	98698		Salvage Operations - Not Otherwise Classified
334	99803		Underpinning Buildings or Structures
313	17314		Cable Installation in Conduits or Subways
334	91302		Cable Installation in Conduits or Subways
334	91324		Caisson or Cofferdam Work - Foundations for buildings
334	16235*		Caisson Work - not foundations for buildings * Code 16235 also includes "Cofferdam Work," "Shaft Sinking" and "Tunneling"
334	91325		Caisson or Cofferdam work - not foundations for buildings
334	98871		Shaft Sinking
334	99798		Tunneling
313	17535*		Carpentry - Not Otherwise Classified * Code 17535 also includes "Ceiling or Wall Installation - not plastering", "Modular Units -building erection", "Prefabricated Building Erection"

EXHIBIT 3

Page 4

COMMERCIAL CONTRACTORS LIABILITY

<u>Class Code</u>			
<u>Subline</u>	<u>Old</u>	<u>New</u>	<u>Description</u>
334		91342	Carpentry - Not Otherwise Classified
334		98502	Prefabricated Building Erection
313	17621		Ceiling or Wall Installation - metal
334		91436	Ceiling or Wall Installation - metal
313	17745*		Cement, Concrete or Granolithic Floor Construction, Finishing or Surfacing * Code 17745 also includes Construction - Not Otherwise Classified"
334		91560	Concrete Construction
313	17425*		Chimney Construction * Code 17425 also includes "Masonry - Not Otherwise Classified"
334		91481	Chimney Cleaning
334		97447	Masonry
313	17965		Cleaning or Renovating - outside Surfaces of Buildings
334		91522	Cleaning or Renovating - outside Surfaces of Buildings
313	17741		Concrete Block Construction - buildings

EXHIBIT 3

Page 5

COMMERCIAL CONTRACTORS LIABILITY

<u>Class Code</u>			
<u>Subline</u>	<u>Old</u>	<u>New</u>	<u>Description</u>
313	16285		Conduit Construction
334		91577	Conduit Construction for Cables or Wires
313	42264		Contractors Permanent yards - maintenance or storage of equipment or material
334		91590	Contractors Permanent Yards - maintenance or storage of equipment or material
313	17755*		Core Drilling - Not Otherwise classified * Code 17755 also includes: "Drilling - Not Otherwise classified"
334		92101	Drilling - Not Otherwise classified
334		92102	Drilling - Water
313	16232		Dam or Reservoir Construction
334		91618	Dam or Reservoir Construction
313	16295*		Dike or Revetment Construction - river work only * Code 16295 also includes: "Jetty or Breakwater and "Levee Construction"
334		91641	Dike, Levee or Revetment Construction
334		96872	Jetty or Breakwater Construction
313	17511		Door, Window or Assembled Millwork Erection - metal or metal covered

EXHIBIT 3

Page 6

COMMERCIAL CONTRACTORS LIABILITY

<u>Class Code</u>			
<u>Subline</u>	<u>Old</u>	<u>New</u>	<u>Description</u>
334		91746	Door, Window or Assembled Millwork - installation - metal
313	16293		Dredging - except gold dredging
334		92055	Dredging - Not Otherwise Classified
313	16144		Driveway, Parking Area or Sidewalk Construction, Paving or Repaving
334		92215	Driveway, Parking Area or Sidewalk - paving or repaving
313	17946		Dry Wall or Wallboard Installation
334		92338	Dry Wall or Wallboard Installation
313	16242		Electric Light or Power Line Construction - Rural Electrification Administration Projects only
334		92447	Electric Light or Power Line Construction - Rural Electrification Administration Projects only
313	16245*		Electric Light or Power Line Construction - Not Otherwise Classified * Code 16245 also includes: "Telephone, Telegraph or Fire Alarm Line Construction"
334		92446	Electric Light or Power Line Construction - Not Otherwise Classified
334		99613	Telephone, Telegraph or Cable Television Line Construction

EXHIBIT 3

Page 7

COMMERCIAL CONTRACTORS LIABILITY

Subline	Class Code		Description
	Old	New	
313	17315		Electrical Wiring - within buildings - including installation or repair of fixtures or appliances
334		91127	Alarm and Alarm Systems - installation, servicing or repair
334		92451	Electrical Apparatus - installation, servicing or repair - Not Otherwise Classified
334		92478	Electrical Work - within building
313	17845		Elevator, Escalator or moving Sidewalk Installation, Service or Repair
334		92593	Elevator or Escalator Inspecting, Installation, Servicing or Repair
313	15111		Excavation - Not Otherwise Classified
334		94007	Excavation
313	17985		Fence Erection - metal
334		94276	Fence Erection Contractors
313	15161*		Fireproofing - structures * Code 15161 also includes "Insulation Work - installation or application of acoustical or thermal insulating materials in buildings or within building walls - Not Otherwise Classified"
334		94404	Fireproofing - structures

EXHIBIT 3

Page 8

COMMERCIAL CONTRACTORS LIABILITY

Subline	Class Code		Description
	Old	New	
334		96408	Insulation Work - plastic - Not Otherwise Classified
334		96409	Insulation Work - organic or plastic in solid state
334		96410	Insulation Work - mineral
313	49531*		Garbage, Ashes or Refuse Collecting * Code 49531 also includes: "Street Cleaning - including snow removal from street and highways"
334		95233	Garbage, Ash or Refuse Collecting
334		99303	Street Cleaning
313	16225		Gas, Sewer, Steam or Water Mains or Connections Construction - including tunneling at street crossings
334		95310	Gas Mains or Connections Construction
334		98820	Sewer Mains or Connections Construction
334		99163	Steam Mains or Connections Construction
334		99946	Water Main or Connections Construction
313	07313		Grading of Land - Not Otherwise Classified
334		95410	Grading of Land

EXHIBIT 3

COMMERCIAL CONTRACTORS LIABILITY

<u>Subline</u>	<u>Old</u>	<u>New</u>	<u>Description</u>
313	15142		Military Reservation Construction - Carpentry
313	17762		Military Reservation Construction - iron or steel erection - not over two stories in height
313	16365*		Oil or Gas Pipe Construction - including pile driving and dredging
			* Code 16365 also includes "Pipe Line Construction - including pile driving or dredging"
334		98423	Pipeline Construction - gas
334		98424	Pipeline Construction - Not Otherwise Classified
334		98425	Pipeline Construction - Oil
334		98426	Pipeline Construction - slurry - nonflammable mixtures
313	17235*		Painting - oil or gasoline tanks - including shop operations
			* Code 17235 also includes "Painting, Decorating or Paper Hanging - Not Otherwise Classified - including shop operations", "Paperhanging" and "Sign Painting or Lettering - on buildings or structures - including operations"
334		98304	Painting - exterior - buildings Classified or structures - three stories or less
334		98305	Painting - interior buildings or structures

EXHIBIT 3

COMMERCIAL CONTRACTORS LIABILITY

<u>Subline</u>	<u>Old</u>	<u>New</u>	<u>Description</u>
313	17765		Iron or Steel Erection - frame structures, iron work on outside of buildings including erecting or repairing balconies, fire escapes, railings, staircases, coal chutes or fireproof shutters
334		97651	Metal erection - frame structures - iron work on outside of buildings
313	15121		Iron or Steel Erection in the construction of dwellings not exceeding two stories in height
334		97652	Metal Erection - in the construction of dwellings not exceeding two stories in height
313	15122		Iron or Steel Erection - steel lock gates, gas holders, standpipes, water towers, smoke stacks, tanks, silos, prison cells or fire or burglar proof vaults
334		97654	Metal Erection - steel lock gates gas holders, standpipes, water tower, smokestacks, tanks, silos, prison cells, fire or burglar proof vaults
313	15125		Iron or Steel Erection - Not Otherwise Classified
334		97655	Metal Erection - structural - Not Otherwise Classified
313	16255		Irrigation or Drainage System Construction - including pile driving or dredging
334		96702	Irrigation or Drainage System Construction

EXHIBIT 3

Page 11

COMMERCIAL CONTRACTORS LIABILITY

<u>Class Code</u>			
<u>Subline</u>	<u>Old</u>	<u>New</u>	<u>Description</u>
334		98306	Painting - Oil or gasoline tanks
334		98344	Paperhanging
334		99004	Sign Painting or Lettering on Buildings or Structures
313	17215		Painting - ship hulls
334		98307	Painting - ship hulls
313	17225		Painting - steel structures or bridges
334		98303	Painting - exterior - buildings or structures - exceeding three stories in height - Not Otherwise Classified
313	17805		Pile Driving - building foundations only
334		98413	Pile Driving - building foundations only
313	16296		Pile Driving - sonic method
334		98415	Pile Driving - sonic method
313	16294		Pile Driving - including timber wharf building - Not Otherwise Classified
334		98414	Pile Driving - Not Otherwise Classified
313	17185		Plumbing - Not Otherwise Classified
334		98482	Plumbing commercial and industrial
334		98483	Plumbing - residential or domestic
334		99080	Solar Energy Contractors

EXHIBIT 3

Page 12

COMMERCIAL CONTRACTORS LIABILITY

<u>Class Code</u>			
<u>Subline</u>	<u>Old</u>	<u>New</u>	<u>Description</u>
334		99948	Water Softening Equipment - installation, servicing or repair
334		98636	Refrigeration Systems or Equipment - dealers and distributors and installation, servicing or repair - commercial
313	17625		Roofing - all kinds - including yard employees
334		98677	Roofing - commercial
334		98678	Roofing - residential
334		98705	Sandblasting
313	17615*		Sheet Metal Work Erection Installation or Repair - Not Otherwise Classified
313	73122		* Code 17615 also includes "Siding Installation - not wood"
334		98884	Sign Erection or Repair - not outdoor advertising companies - including shop operations
334		98884	Sheet Metal Work - shop and outside
334		98967	Siding Installation
334		98993	Sign Erection, Installation or Repair
313	17141		Steam Pipe or Boiler Insulation
334		99165	Steam Pipe or Boiler Insulation
313	16115		Street or Road Construction or Reconstruction
334		99315	Street or Road Construction or Reconstruction

EXHIBIT 3

Page 13

COMMERCIAL CONTRACTORS LIABILITY

Subline	Class Code		Description
	Old	New	
313	16125		Street or Road Paving or Repaving, Surfacing or Resurfacing or Scraping
334		99321	Street or Road Paving or Repaving, Surfacing or Resurfacing or Scraping
313	16205		Subway Construction
334		99445	Subway Construction
313	17802		Swimming Pools - below ground - installation, service or repair
334		99507	Swimming Pools - installation, servicing or repair - below ground
313	17906		Swimming Pools - above ground - installation, service or repair
334		99506	Swimming Pools - above ground - installation, service or repair
334		99570	Tank Construction, Installation, Erection or Repair - metal - not pressurized - Not Otherwise Classified
334		99571	Tank Construction, Installation, Erection or Repair - metal - pressurized - Not Otherwise Classified
313	17821		Wrecking - marine- including salvage operations
334		99988	Wrecking - marine
313	17822		Wrecking Buildings or Structures - not marine - Not Otherwise Classified
334		99986	Wrecking - buildings or structures - Not Otherwise Classified

EXHIBIT 4

Page 1

MUNICIPAL LIABILITY

GOVERNMENTAL SUBDIVISION - NOT STATE OR FEDERAL

REGISTER OF REGULATIONS
SECTION 21-101.5-0

Municipalities (including boroughs, cities, towns, townships, etc.)

Subline*	Class Code		Population
	Old	New	
	91250	44100	Under 2,500
	91251	44101	2,501 - 10,000
	91252	44102	10,001 - 25,000
	91253	44103	25,001 - 50,000
	91254	44104	50,001 - 100,000
	91255	44105	100,001 - 250,000
	91256	44106	Over 250,000
	91263	Included	Personal Injury Coverage

Counties or Parishes

	91257	44108	Under 10,000
	91258	44109	10,001 - 25,000
	91259	44110	25,001 - 50,000
	91260	44111	50,001 - 100,000
	91261	44112	100,001 - 250,000
	91262	44113	Over 250,000
	91263	Included	Personal Injury Coverage
	#93050	93050	Governmental Composite Rated Risks

Class Code

Old	New	Description
93111		Government Employees - municipal, township, county or state
		This classification includes employees engaged in laboratory work, inspectors of the Board of Health, electrical inspectors, building inspectors and similar occupations. Workmen, mechanics or others engaged in manual labor or supervisors of construction work to be separately rated.

EXHIBIT 4

Page 2

MUNICIPAL LIABILITY

GOVERNMENTAL SUBDIVISION - NOT STATE OR FEDERAL

Municipalities (including boroughs, cities, towns, townships, etc.)

Streets, Roads, Highways or Bridges

Class Code

<u>Old</u>	<u>New</u>	<u>Description</u>
93151		Streets, Roads or Highways - with or without sidewalks - including bridges and culverts but excluding toll bridges and drawbridges - existence hazard only (excluding New York)
	48727	Streets, Roads, Highways or Bridges - existence and maintenance hazard only

* NOTE: Except for Governmental Composite Rated Risks (class 93050), all old classes are subline 314 - all new classes are subline 334

NOTE: Sublines 322, 323, 324, 342, 343, and 344

EXHIBIT 4

Page 3

MUNICIPAL LIABILITY

LAW ENFORCEMENT AGENCIES LIABILITY SUBCLASS

All classes, including, but not limited to the following:

Agencies whose employees deal directly with the public and exercise general powers of arrest such as:

- (a) County Sheriff/Police Chief
- (b) Peace Officers

Agencies whose employees do not deal directly with the public and exercise limited power of arrest such as:

- (a) Jailers
- (b) Matrons
- (c) County Security
- (d) Civil Process Officers

Agencies who do not exercise power of arrest and whose duties are administrative such as:

- (a) County Commissioners
- (b) City Council
- (c) Mayors or City Managers
- (d) Auxiliary or Reserve Police
- (e) Coroner
- (f) School Crossing Guards, Humane Officers, Crime Prevention Officers

Agencies whose employees whose ordinary duties are only indirectly related to enforcement of criminal laws such as:

- (a) Clerical Staff/Fingerprinting/License Examination
- (b) Stenographic Personnel/Food Service/Photographic
- (c) Dispatcher/Record Keeping

EXHIBIT 4

Page 4

MUNICIPAL LIABILITY

PUBLIC HOUSING LIABILITY SUBCLASS

<u>Class Code</u>			
<u>Subline</u>	<u>Old</u>	<u>New</u>	<u>Description</u>
314	93111		Housing Projects - Federal, State, Local - Apartment Houses - not three or four family dwellings
314	93182		Housing Projects - Federal, State, Local - Dwellings - four family
314	93183		Housing Projects - Federal, State, Local - Dwellings - three family
314	93184		Housing Project - Federal, State, Local - Dwellings - two family
314	93185		Housing Projects - Federal, State, Local - Private Residences
334		64500	Housing Projects - Federal, State, Local

EXHIBIT 4

Page 5

MUNICIPAL LIABILITY

SEWAGE TREATMENT PLANTS LIABILITY SUBCLASS

<u>Class Code</u>			
<u>Subline</u>	<u>Old</u>	<u>New</u>	<u>Description</u>
313	495211		Sewage Disposal - plant operation
334		98810	Sewage Treatment Plants

EXHIBIT 5
1992 Zero Report

INSURER _____ NAIC # _____

Enter a zero beside the lines and/or subclassifications of liability insurance where you have no written premium in 1992.

- 87013 Products and Completed Operations Liability _____
- 91001 Commercial Contractors Liability including Asbestos Abatement Contractors _____
- 91003 Municipal Liability including:
 - Law Enforcement Agencies Liability _____
 - Public Housing Liability _____
 - Public Officials Errors and Omissions Liability _____
 - School Board Errors and Omissions Liability _____
 - Sewage Treatment Plants Liability _____

Signed: _____

Print Name: _____

Title: _____

Telephone: _____

Date: _____

State Corporation Commission

April 29, 1993

Administrative Letter 1993-10

TO: All Insurers Licensed for Property and Casualty Lines of Insurance

RE: Use of Final Rates Filed by Rate Service Organizations For Property and Casualty Lines of Insurance Other Than Workers' Compensation Insurance

Effective January 1, 1994, insurers will no longer be permitted to use final rates that were previously filed on their behalf by rate service organizations.

For policies effective on and after January 1, 1994, insurers must either file appropriate multipliers for use with loss costs filings of rate service organizations, or file independently-developed final rates.

Section 38.2-1908 of the Code of Virginia was amended effective July 1, 1990, to prohibit rate service organizations from filing final rates on behalf of their members and subscribers for lines of insurance then regulated under Chapter 19. The statute now permits rate service organizations to file only loss costs and certain supplementary rating information. Administrative Letter 1990-5 outlines the procedures to be followed by insurers in filing multipliers to be applied to such loss costs to produce final rates.

In order to avoid any market disruption, Administrative Letter 1990-5 did not require insurers to move immediately to the loss costs system or to refile rates previously implemented; however, the statute change has now been in effect for almost three years and many insurers are still using final rates filed on their behalf by rate service organizations prior to 1990. It has, therefore, become necessary to establish a date beyond which such rates may not remain in effect. The January 1, 1994, date allows ample time for rate service organizations and insurers to make the appropriate filings.

Questions regarding this Administrative Letter should be directed to the Bureau of Insurance, Property and Casualty Division, at (804) 371-9965.

Procedures for the transition to loss costs for workers' compensation insurance will be addressed in a separate administrative letter in the near future.

Steven T. Foster
Commissioner of Insurance

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, MAY 11, 1993

COMMONWEALTH OF VIRGINIA

At the relation of the
STATE CORPORATION COMMISSION

CASE NO. PUC930013

Ex Parte: In the matter of adopting
rules implementing the Pay Telephone
Registration Act

ORDER PRESCRIBING NOTICE

During its 1993 session, the General Assembly of Virginia enacted Title 56, Chapter 16.3, Sections 56-508.15 and 56-508.16, entitled the Pay Telephone Registration Act. This legislation was in response to a growing number of complaints brought by the public involving coin telephones.

Section 56-508.15 requires the registration or certification of all persons engaged in the sale or resale of intrastate telephone service through pay telephone instruments.

Section 56-508.16 authorizes the State Corporation Commission ("Commission") to promulgate rules necessary to implement the provisions of Chapter 16.3.

In response to the legislation, the Commission staff has prepared a document entitled Rules For Pay Telephone Service And Instruments. The Commission now proposes that these rules become effective July 1, 1993.

The Commission is of the opinion that this matter should be docketed and that public notice be given concerning the proposed Rules For Pay Telephone Service And Instruments.

Accordingly,

IT IS THEREFORE ORDERED:

- (1) That this matter is hereby docketed and assigned Case No. PUC930013;
- (2) That the Commission's Division of Communications shall forthwith cause a copy of the following notice to be published once as display advertising in newspapers having general circulation throughout the Commonwealth:

NOTICE OF PROPOSED RULES FOR PAY TELEPHONE SERVICE AND INSTRUMENTS

The 1993 Session of the General Assembly of Virginia enacted Title 56, Chapter 16.3, Sections 56-508.15 and 56-508.16, entitled the PAY TELEPHONE REGISTRATION ACT. The PAY TELEPHONE REGISTRATION ACT provides that no person shall sell or resell intrastate telephone service through pay telephone instruments without either being registered with the State Corporation Commission pursuant to Chapter 16.3 or holding a certificate of public convenience and necessity pursuant to Chapter 10.1 (§

State Corporation Commission

56-265.1 et seq.) or Chapter 16.2 (§ 56-508.8 et seq.) of Title 56. Upon suspension or revocation of any registration, certificated carriers shall disconnect pay telephone instruments of the registrant as directed by order of the Commission. The PAY TELEPHONE REGISTRATION ACT also states that all persons engaged in the sale or resale of intrastate telephone service through pay telephone instruments as of July 1, 1993, shall, within the following 180 days, either acquire Commission registration or demonstrate to the Commission possession of a certificate of public convenience and necessity pursuant to Chapter 10.1 (§ 56-265.1 et seq.) or Chapter 16.2 (§ 56-508.8 et seq.) of this title. The PAY TELEPHONE REGISTRATION ACT also authorizes the Commission to promulgate regulations necessary to implement the provisions of Chapter 16.3, to levy and collect reasonable registration or other fees, to establish service and rate criteria for registered or certificated persons, and to suspend or revoke registration, or to levy fines or impose other sanctions, for failure to comply with such regulations.

The Commission has drafted a document entitled RULES FOR PAY TELEPHONE SERVICE AND INSTRUMENTS. These rules are proposed to be the regulations necessary to implement the provisions of Title 56, Chapter 16.3, the PAY TELEPHONE REGISTRATION ACT.

The Commission is considering so-called "Dial Around" compensation to private pay telephone providers for partial reimbursement of revenue lost as a result of a rule requiring pay telephone user access to all operator service providers' networks through their "950," "800," or "1-0-XXX-0+" numbers. However, study of this possible step is in progress and the Commission currently has no position on this issue.

The text of the proposed rules can be either examined at or obtained from the Commission's Document Control Center, 1st Floor, Tyler Building, 1300 East Main Street, P.O. Box 2118, Richmond, Virginia 23209. The Document Control Center may be contacted by telephone on (804) 371-9033.

Any party wishing to comment on the proposed rules or request a hearing may do so by filing such requests or comments with the Clerk of the Commission, William J. Bridge, P.O. Box 2118, Richmond, Virginia, 23209 on or before June 17, 1993. Any such filing should refer to Case No. PUC930013.

(3) That any comments or requests for hearing on the proposed rules must be filed on or before June 17, 1993; and

(4) That if no substantial objections or requests for a hearing are filed on or before June 17, 1993, the Commission may adopt its proposed Rules For Pay Telephone Service And Instruments without

conducting a hearing.

ATTESTED COPIES of this Order shall be sent by the Clerk of the Commission to Virginia's local exchange companies as set out in Appendix A attached hereto; Virginia's certificated interexchange carriers as set out in Appendix B attached hereto; the Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; the Commission's Office of General Counsel; and the Commission's Divisions of Communications and Public Utility Accounting.

APPENDIX A

TELEPHONE COMPANIES IN VIRGINIA

Amelia Telephone Corporation
Mr. Joseph E. Hicks, Vice President
P.O. Box 22995
Knoxville, Tennessee 37933-0995

Amelia Telephone Corporation
Mr. Raymond L. Eckels, Manager
P. O. Box 76
Amelia, Virginia 23002

Buggs Island Telephone Cooperative
Mr. M. Dale Tetterton, Jr., Manager
P. O. Box 129
Bracey, Virginia 23919

Burke's Garden Telephone Exchange
Ms. Sue B. Moss, President
P. O. Box 428
Burke's Garden, Virginia 24608

Central Telephone Company of Virginia
Mr. Gregory L. Wells
Acting President - VA/NC
P. O. Box 6788
Charlottesville, Virginia 22906

Chesapeake & Potomac Telephone Company
Mr. Hugh R. Stallard, President
and Chief Executive Officer
600 East Main Street
P.O. Box 27241
Richmond, Virginia 23261

Citizens Telephone Cooperative
Mr. James R. Newell, Manager
Oxford Street
P. O. Box 137
Floyd, Virginia 24091

Clifton Forge-Waynesboro Telephone Company
Mr. James S. Quarforth, President
P. O. Box 1990
Waynesboro, Virginia 22980-1990

State Corporation Commission

Contel of Virginia, Inc.
Mr. Edward J. Weise, President
9380 Walnut Grove Road
P. O. Box 900
Mechanicsville, Virginia 23111-0900

GTE South
Mr. J. M. Swatts
State Manager - External Affairs
300 Bland Street
Bluefield, West Virginia 24701

GTE South
Mr. Thomas R. Parker
Associate General Counsel
Law Department
P.O. Box 110 - Mail Code: 7
Tampa, Florida 33601-0110

Highland Telephone Cooperative
Mr. Elmer E. Halterman, General Manager
P.O. Box 340
Monterey, Virginia 24465

Mountain Grove-Williamsville Telephone Company
Mr. L. Ronald Smith
President/General Manager
P. O. Box 105
Williamsville, Virginia 24487

New Castle Telephone Company
Mr. Joseph E. Hicks
P.O. Box 22995
Knoxville, Tennessee 37933-0995

New Hope Telephone Company
Mr. K. L. Chapman, Jr., President
P. O. Box 38
New Hope, Virginia 24469

North River Telephone Cooperative
Mr. W. Richard Fleming, Manager
P. O. Box 236, Route 257
Mt. Crawford, Virginia 22841-0236

Pembroke Telephone Cooperative
Mr. Stanley G. Cumbee, General Manager
P. O. Box 549
Pembroke, Virginia 24136-0549

Peoples Mutual Telephone Company, Inc.
Mr. E. B. Fitzgerald, Jr.
President & General Manager
P. O. Box 367
Gretna, Virginia 24557

Roanoke & Botetourt Telephone Company
Mr. Allen Layman, President
Daleville, Virginia 24083

Scott County Telephone Cooperative

Mr. James W. McConnell, Manager
P. O. Box 487
Gate City, Virginia 24251

Shenandoah Telephone Company
Mr. Christopher E. French
President
P. O. Box 459
Edinburg, Virginia 22824

United Telephone-Southeast, Inc.
Mr. William K. Smith, President
112 Sixth Street, P. O. Box 699
Bristol, Tennessee 37620

Virginia Telephone Company
Mr. Joseph E. Hicks
Vice President, External Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

..... APPENDIX B

INTER-EXCHANGE CARRIERS

AT&T Communications of Virginia
Mr. Terry Michael Banks, Vice President
Three Flint Hill
3201 Jermantown Road, Room 3B
Fairfax, Virginia 22030-2885

CF-W Network Inc.
Mr. James S. Quarforth, President
P. O. Box 1990
Waynesboro, Virginia 22980-1990

Central Telephone Company of Virginia
Mr. James W. Spradlin, III
Government & Industry Relations
P.O. Box 6788
Charlottesville, Virginia 22903

Citizens Telephone Cooperative
Mr. James R. Newell, Manager
Oxford Street
P.O. Box 137
Floyd, Virginia 24091

Metromedia Communications Corporation
Mr. Joseph Kahl, Manager
Regulatory Affairs
One Meadowlands Plaza
East Rutherford, New Jersey 07073

Contel of Virginia, Inc.
Mr. Stephen Spencer
1108 East Main Street, Suite 1108
Richmond, Virginia 23219

Institutional Communications Company - Virginia

Ms. Dee Kindel
8100 Boone Boulevard, Suite 500
Vienna, Virginia 22182

MCI Telecommunications Corp. of Virginia
Robert C. Lopardo
Senior Attorney
1150 17th Street, N.W., 8th Floor
Washington, D.C. 20036

R&B Network, Inc.
Mr. Allen Layman, Executive Vice President
P. O. Box 174
Daleville, Virginia 24083

Scott County Telephone Cooperative
Mr. James W. McConnell, Manager
P.O. Box 487
Gate City, Virginia 24251

Shenandoah Telephone Company
Mr. Christopher E. French
President & General Manager
P. O. Box 459
Edinburg, Virginia 22824

SouthernNet of Va., Inc.
Peter H. Reynolds, Director
780 Douglas Road, Suite 800
Atlanta, Georgia 30342

TDX Systems, Inc.
Mr. Charles A. Tievsky, Manager
Legal and Regulatory Affairs
1919 Gallows Road
Vienna, Virginia 22180

Sprint Communications of Virginia, Inc.
Mr. Kenneth Prohoniak
Staff Director, Regulatory Affairs
1850 "M" Street, N.W. Suite 110
Washington, DC 20036

Wiltel of Virginia
Brad E. Mutschelknaus, Esquire
Wiley, Rein and Fielding
1776 K Street, N.W.
Washington, DC 20006

RULES FOR PAY TELEPHONE SERVICE AND INSTRUMENTS

THE FOLLOWING RULES SHALL APPLY TO ALL PAY TELEPHONE INSTRUMENTS INSTALLED OR MADE AVAILABLE FOR PUBLIC USE WITHIN THE COMMONWEALTH OF VIRGINIA, WHETHER OWNED AND OPERATED BY A LOCAL EXCHANGE COMPANY, AN INTEREXCHANGE CARRIER, A CELLULAR CARRIER, OR A PRIVATELY OWNED PAY TELEPHONE SERVICE PROVIDER.

1. Local exchange telephone companies, interexchange carriers, and cellular carriers are authorized to provide pay telephone service within their certificated areas in the Commonwealth of Virginia. Private pay telephone service providers are authorized, when they have been properly registered with the State Corporation Commission (SCC), to provide pay telephone service anywhere within the Commonwealth of Virginia.

2. Reliable connections to the telecommunications network and high quality service to end users is expected of all pay telephone providers.

3. Any SCC certificated local exchange company, interexchange carrier, or cellular carrier who is a provider of pay telephone service must submit a notarized letter to the SCC by not later than January 1, 1994 which attests to that fact. If any SCC certificated local exchange, interexchange, or cellular carrier is not a pay telephone service provider as of January 1, 1994 and, subsequent to that date, plans to become a provider of that service, it must first submit a notarized letter to the SCC attesting to its intent. The letters as described in this rule should be addressed to the Division of Communications, P.O. Box 1197, Richmond, Virginia, 23209.

4. The State Corporation Commission assesses a registration fee of \$20.00 per year per private pay telephone operated in Virginia. This fee must be submitted with the completed Commission form in order to become registered. In the first year of the Pay Telephone Registration Act, this fee will be due by not later than January 1, 1994 and will be assessed and payable to the Commission by January 1st of each successive year. A late filing fee of ten percent (10%) will be assessed for all first year applications received after January 1, 1994 and for late payments received after January 1st in successive years. Commission forms may be obtained by writing to the Division of Communications, P.O. Box 1197, Richmond, Virginia, 23209 or calling (804) 371-9420.

5. Pay telephone service may be provided only through telephone instruments registered by the Federal Communications Commission (FCC).

6. Pay telephone instruments must be equipped to receive incoming calls unless they are prominently marked with the words "OUTGOING CALLS ONLY."

7. All providers of privately owned pay telephone service must notify the area local exchange carrier of a pay telephone instrument's connection, location, FCC registration number, pay telephone provider's SCC registration number, and such other details as the local exchange company may need for billing purposes. Failure to provide accurate information could result in the instrument not being connected or being disconnected.

State Corporation Commission

8. Where message rate service is available, the local exchange company may furnish privately owned pay telephone access lines on a message rate basis at the same monthly rate and per message rate offered to business customers in that location. Where message rate service is not offered, access lines for privately owned pay telephone instruments shall be furnished at a monthly rate not to exceed the rate for flat business trunk service. Where timed/measured service is offered on an optional basis, the privately owned pay telephone providers may elect to subscribe to the measured service rather than message rate service or flat rate service.

9. All pay telephone service providers must furnish local directory number information on their pay telephone instruments. The maximum charge for local directory assistance service from a private pay telephone shall be no higher than 30 cents per directory assistance call. Any long distance directory assistance charge applied to the pay telephone service provider may be passed on to the pay telephone instrument user.

10. All pay telephone instruments must be equipped for dial tone first.

11. All pay telephone instruments must provide coinless calling to 911 where that number is utilized by emergency agencies. All pay telephone instruments must provide coinless calling to the area local exchange company operator by the use of "0" as the user access code.

12. The maximum rate for local calls or extended area calls originating from all pay telephone instruments, whether the call is completed coin paid, billed collect, billed to a credit card, or billed to a third number, may not exceed the rate approved for the area local exchange company including any operator assistance charges.

13. The charge for all intrastate toll calls placed from local exchange company, interexchange carrier, or cellular carrier owned pay telephone instruments shall be as specified in the tariffs on file with the Commission. The maximum charge for all intrastate intraLATA toll calls placed from all privately owned pay telephone instruments may not exceed the approved charge for similarly rated calls, including any operator assistance charges, as specified in the area local exchange company tariff, plus a surcharge of \$1.00. The maximum charge for all intrastate interLATA toll calls placed from privately owned pay telephone instruments may not exceed the charge for similarly rated calls as specified in the tariffs of AT&T, plus a surcharge of \$1.00.

14. No pay telephone service provider may enter into any contract or agreement with any provider of operator service who charges users of pay telephone

instruments any rate which conflicts with Rules 12 or 13 above.

15. All pay telephone service providers must post consumer information and instructions on their pay telephone instruments as specified in the attachment to these rules.

16. In providing intrastate toll service, all pay telephone service providers must allow user access from their pay telephone instruments to the area local exchange telephone company operator through the access code "0" and to all operator service providers' networks through their "950," "800," or "1-0-XXX-0+" numbers.

17. All coin operated pay telephone instruments must accept any combination of nickels, dimes, and quarters for local and long distance calling charges. All coin operated pay telephone instruments must return any deposited amount if the call is not completed.

18. All pay telephone service providers must designate a party responsible for processing refunds to customers.

19. All pay telephone service providers must make all reasonable efforts to minimize the extent and duration of interruptions of service. Pay telephone instruments which are reported as being out of service must be restored to service on the same day that the service interruption is reported to the pay telephone provider, Sundays and legal holidays excluded.

20. Local exchange companies must furnish private pay telephone service providers who operate within their certificated areas a listing of all central office codes working in their area. This information must be updated by the local exchange companies and re-issued to the private pay telephone service providers as central office codes are added or deleted. In addition, the local exchange companies must also provide information to private pay telephone service providers on changes in local calling and extended calling areas.

21. All pay telephone instruments must be hearing-aid compatible and installed in a manner to accommodate disabled persons as specified in the Americans with Disabilities Act.

22. Failure to comply with the rules contained herein may result in the disconnection of pay telephone instruments, fines, loss of registration for private pay telephone providers, loss of authority to engage in the pay telephone business for certificated carriers, or any combination of these penalties which, in the judgment of the Commission, is necessary to protect the public interest.

23. If it finds that the action is consistent with the

public interest, the Commission may exempt a pay telephone provider from some or all of the rules contained herein.

instrument user is connected shall be able to quote a specific rate for each call upon inquiry.

ATTACHMENT TO COMMISSION RULES FOR PAY TELEPHONE SERVICE AND INSTRUMENTS

Rule No. 15 requires that all pay telephone service providers must post consumer information and instructions on their pay telephone instruments as specified in this attachment. Pay telephone instruction cards must contain, at a minimum, the following information:

1. Clear operating instructions.
2. Physical address and phone number of the pay telephone instrument.
3. Ownership of the instrument, including the owner's name, address, and contact telephone number.
4. Procedures for repair, refunds, and billing disputes, including specific contact telephone numbers for 24-hour contact service.
5. Instructions on how to contact both local and long distance directory assistance.
6. Prominent instructions specifying that the local exchange company operator may be reached through the access code "0".
7. Clear and prominent instructions on how pay telephone users may reach emergency agencies. These instructions shall refer to "911" where that code is in use as a locality's emergency agency contact number. Where "911" is not in use, the instructions must specify that the desired emergency agency's telephone number be called or dial "0" for emergency assistance.
8. If the pay telephone instrument is not equipped to receive incoming calls, prominent instructions which read "OUTGOING CALLS ONLY" must be posted.
9. Instructions on how to reach a pay telephone instrument user's preferred long distance or interexchange carrier.
10. The identity of the company normally making the charge for any intrastate long distance or local operator assisted call not handled by the local exchange company operator.
11. A conspicuous notice stating "For long distance rates, dial....." The listed number shall be toll free to the pay telephone instrument user and shall connect the user to the company normally making the charge for any intrastate long distance or local operator assisted call originating from the pay telephone instrument. The party to whom the pay telephone

GOVERNOR

EXECUTIVE ORDER NUMBER SIXTY-FOUR (93)

ESTABLISHING THE GOVERNOR'S ADVISORY COMMISSION ON THE REVITALIZATION OF VIRGINIA'S URBAN AREAS

By virtue of the authority vested in me as Governor under Article V of the Constitution and, including, but not limited to, Section 2.1-51.36 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's Advisory Commission on the Revitalization of Virginia's Urban Areas.

The Advisory Commission is classified as a gubernatorial advisory commission in accordance with Sections 2.1-51.35 and 9.6-25 of the Code of Virginia.

The Commission shall have the specific duty of advising the Governor relative to the following issues:

1. Recommending those actions best able to reduce the level of fear and dependence to which many residents of central cities are subject, including the most effective means for countering drug dependence, urban crime and violence, for altering policies and practices that promote welfare and other governmental subsidy dependency, and for modifying approaches to health care in the cities.
2. Recommending those actions best able to reestablish and revitalize the economic and social foundations of urban life by preventing the continued erosion of the central cities' economic bases and making more effective use of community development and redevelopment tools.
3. Recommending those actions best able to increase educational and employment opportunities for adults and youth in the central cities by increasing access to educational, employment, and apprenticeship programs promoting individual responsibility and autonomy that provide a sound basis for family and community life.

The Chairman, Vice Chairman, and members of the Commission shall be appointed by the Governor and shall serve at his pleasure. The Commission shall consist of no more than twenty members, including legislators, local elected officials, business and community leaders, academics and representatives of the Offices of the Secretaries of Economic Development, Education, Finance, Health and Human Resources, Public Safety, and Transportation.

Such funding as is necessary for the fulfillment of the Commission's business during the term of its existence will be provided by the Virginia Commonwealth University. Expenditures for the Commission's work are estimated to be \$15,000.

Such staff support as is necessary for the conduct of the

Commission's business during its term of existence will be provided by the Center on Urban Development at Virginia Commonwealth University, with assistance provided by the following executive branch agencies: The Departments of Criminal Justice Services; Social Services; Mental Health, Mental Retardation and Substance Abuse Services; Economic Development; Housing and Community Development; Minority Business Enterprise; Education; and the Governor's Employment and Training Department. An estimated 5,500 hours of staff support will be required to assist the Commission.

Members of the Commission shall serve without compensation and shall not receive any expenses incurred in the discharge of their official duties.

The Commission shall complete its examinations of these matters and report to the Governor no later than October 1, 1993. It may issue interim reports and make recommendations at any time it deems necessary.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until October 15, 1993, unless amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 30th day of April, 1993.

/s/ Lawrence Douglas Wilder
Governor

EXECUTIVE ORDER NUMBER SIXTY-SEVEN (93)

RESCINDING EMERGENCY TRAVEL AUTHORIZATION FOR TRUCKS HAULING GOODS TO DISASTER AREAS IN FLORIDA AND LOUISIANA

Whereas Executive Order Number Fifty-Six (92): Emergency Travel Authorization For Trucks Hauling Goods To Disaster Areas Within the States of Florida and Louisiana, was issued by me on the twenty-eighth day of August, Nineteen hundred ninety-two; and

Whereas this executive order served an important purpose by increasing weight limits and exempting from registration, trucks hauling essential emergency relief supplies goods to disaster areas within the states of Florida and Louisiana; and

Whereas the state of emergency no longer exists within the states of Florida and Louisiana;

Therefore, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and Section 44-146.17 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I do hereby rescind Executive Order Number Fifty-Six (92).

Governor

This Executive Order shall be effective upon its signing.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 29th day of April, 1993.

/s/ Lawrence Douglas Wilder
Governor

EXECUTIVE ORDER NUMBER SIXTY-EIGHT (93)

CONTINUING THE GOVERNOR'S COMMISSION ON DEFENSE CONVERSION AND ECONOMIC ADJUSTMENT

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and, including, but not limited to, Sections 2.1-51.36 and 2.1-51.37 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue the Governor's Commission on Defense Conversion and Economic Adjustment.

Spending by the United States Department of Defense, amounting in Virginia to over seventeen billion dollars in 1992, is a prominent factor in the State's economy. Per capita defense expenditures are higher in Virginia than in any other state, leading many experts to believe that Virginia is especially vulnerable to sudden reductions in defense expenditures. Due to the end of the Cold War, defense-related expenditures are expected to decline significantly during the balance of this decade.

Recognizing the adverse consequences that may be suffered by Virginia businesses and the State's economy as a result of the anticipated reductions, the Secretary of Economic Development established an inter-agency task force in March, 1990 to review, analyze, and monitor defense-related issues and to recommend steps that should be taken by Virginia government to reduce these adverse impacts. During the summer of 1991, the Commonwealth, in cooperation with the National Governors' Association, conducted a pilot program to develop a strategy for mobilizing state government resources to aid Virginia businesses in this regard. The inter-agency task force has conducted research on Virginia's defense industry, produced analytical reports on defense procurement spending, developed the capability to perform economic impact analyses on defense expenditure reductions as they occur, and has begun to implement the recommendations of the pilot program.

Having begun to fully mobilize state government resources to meet the conversion needs of our businesses, it became necessary to take additional measures to coordinate state efforts and work in partnership with the Virginia business community.

Accordingly, the Governor's Commission on Defense Conversion and Economic Adjustment was created as a public and private sector partnership to expand the work

heretofore done and, more particularly, to advise the Governor on the following:

1. The conduct and supervision of research to develop a better understanding of the defense industry, including the collection of data to assess the impact of defense expenditure reductions on the economy of Virginia and its substate areas.
2. The initiation of community education programs to inform defense-dependent communities of the availability of technical and financial assistance from the federal and state governments and other sources.
3. The coordination of state programs that provide direct assistance to defense-impacted firms, workers, and communities and exploration of the need for new initiatives.
4. Recommendations to the federal government for increased and effective support of conversion efforts in Virginia.
5. The coordination of conversion efforts with appropriate authorities of the federal government and governments of other states.
6. Recommendations for removal of superfluous regulations by the federal, state, and local governments that impede free enterprise, especially by firms attempting to convert to non-defense business activities.
7. The preparation of a report and recommendations for the Secretary of Education and the Secretary of Economic Development, consistent with House Joint Resolution 325 as passed by the 1992 session of the General Assembly of Virginia, on how the Commonwealth can best assist military personnel in their transition to civilian employment and on how to encourage partnerships between the Commonwealth and the military to foster research and development in the Commonwealth.

The Commission shall pay special attention to the needs of small businesses, particularly minority and women owned enterprises, which are expected to be adversely affected in a disproportionate way by defense cutbacks.

It is recognized that a number of existing agencies, boards and commissions of the Commonwealth share responsibility for portions of the work assigned to the Governor's Commission on Defense Conversion and Economic Adjustment. Therefore, it is my intent that the Commission work in close cooperation with appropriate state boards, including the Governor's Economic Advisory Council, the Governor's Advisory Board of Economists, the Governor's Advisory Council on Revenue Estimates, the Industrial Development Services Advisory Board and the Small Business Advisory Board.

Members of the Commission shall be appointed by the Governor and shall serve at his pleasure. The Commission shall consist of no more than 17 members and may include, among others, leaders in business, industry, labor and the general citizenry. The Chairperson and Vice Chairperson shall be appointed by the Governor, and too, shall serve in such capacity at the pleasure of the Governor.

Agencies of the Commonwealth with purposes closely and definitely related to those of the Commission are expected to cooperate with and provide assistance to the Commission to the fullest extent allowed by law. The Commission shall consult with and seek guidance from others in private industry, local government and agencies of the federal government as needed.

Such funding as is necessary for the fulfillment of the Commission's business during the term of its existence will be provided by such executive branch agencies as the Governor may from time to time designate, from funds appropriated for the purposes for which the Commission is created. Total expenditures to support the Commission's work are estimated to be \$19,000.

Such staff support as is necessary for the conduct of the Commission's business during the term of its existence will be provided by the Virginia Employment Commission and such other executive branch agencies as the Governor may from time to time designate. An estimated 5,000 hours of staff support will be required to assist the Commission.

Members of the Commission shall serve without compensation and shall not receive any expenses incurred in the discharge of their official duties.

The Commission shall meet at the call of the Chairperson. It may issue further reports and make recommendations to the Governor at any time it deems necessary.

This Executive Order shall be retroactively effective to March 24, 1993, upon its signing, and shall remain in full force and effect until January 14, 1994, unless amended or rescinded by further executive order.

This Executive Order rescinds Executive Order Number Forty-Three (92) (Revised) issued the 9th day of December, nineteen hundred and ninety-two.

Given under my hand and under the Seal of the Commonwealth of Virginia this 20th day of May, 1993.

/s/ Lawrence Douglas Wilder
Governor

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

BOARD OF DENTISTRY

Title of Regulation: **VR 225-01-1. Board of Dentistry Regulations.**

Governor's Comment:

I do not object of the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: May 18, 1993

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: **VR 270-01-0007. Regulations Governing Special Education Programs for Children with Disabilities in Virginia.**

Governor's Comment:

In general, I approve of the proposed amendments to the regulations governing special education programs for children with disabilities. However, the Board of Education should fully examine the fiscal impact of adding Attention Deficit Hyperactivity Disorder/Attention Deficit Disorder to the definition of "other health impairment."

/s/ Lawrence Douglas Wilder
Governor
Date: May 21, 1993

DEPARTMENTS OF EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; SOCIAL SERVICES; AND YOUTH AND FAMILY SERVICES

Title of Regulation: **VR 270-01-003, VR 470-02-01, VR 615-29-02, VR 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.**

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: May 21, 1993

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: **VR 370-01-002. Rules and Regulations**

Governor

of the Virginia Health Services Cost Review Council.

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: May 21, 1993

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **State Plan for Medical Assistance Relating to EPSDT and Inpatient Psychiatric Services. VR 460-01-22. Services. VR 460-03-3.1100. Amount, Duration and Scope of Services. VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care. VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates—Other Types of Care.**

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: May 18, 1993

* * * * *

Title of Regulation: **VR 460-03-4.1940:1. Nursing Home Payment System (PIRS): Interim Settlement/Prospective Rate Time Frames, Audited Financial Statements and Appeal Notice Requirements.**

Governor's Comment:

I do not object of the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: May 21, 1993

BOARD OF PROFESSIONAL COUNSELORS

Title of Regulation: **VR 560-01-02. Regulations Governing the Practice of Professional Counseling.**

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: May 18, 1993

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: **VR 615-80-01. Human Subject Research Regulations.**

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: May 18, 1993

GENERAL NOTICES/ERRATA

Symbol Key †
 † Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

NOTICE

Notices of Intended Regulatory Action are published as a separate section at the beginning of each issue of the Virginia Register.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

† Administrative Procedure for Processing Violations for Civil Penalty Assessment and Actions on Certificates, Licenses, and Registrations

<u>Decision-Maker</u>	<u>Activity</u>	<u>Time Frame</u>		
Enforcement Supervisor	Review reports and sample analyses pertaining to investigations, inspections, observations, and monitorings insure that the information for each case is complete, clearly written and the findings well-documented; determine if a possible violation of Pesticide Control Act or supporting regulations occurred.	Within 5 work days of receipt of complete information	Program Manager	IF CIVIL PENALTY GREATER THAN \$2,500 IS APPROVED, return to Compliance Manager for mailing to respondent and posting in tracking docket. Within 2 work days of completion of case review
Enforcement Supervisor	If no violation, inform affected parties of results as appropriate; notify investigator, post in non-violative record.	Within 2 work days following review	Compliance Manager	IF CIVIL PENALTY GREATER THAN \$2,500 IS NOT APPROVED, return to Compliance Manager for reassessment of penalty or issuance of Notice of Warning. Within 2 work days of receipt of approval
Compliance Manager	IF POSSIBLE VIOLATION OCCURRED, forward to Compliance Manager; record in tracking docket.	Within 1 work day following review	Compliance Manager	Mail approved civil penalty assessment with payment statement to respondent; include notification that the assessment can be appealed in a fact-finding conference authorized by § 9-6.14:11 of the Code; post in tracking docket. Within 2 work days of receipt of approval
Compliance Manager	Review each case forwarded by the Enforcement Supervisor to determine whether or not violation(s) of the Pesticide Control Act or supporting regulations are documented in the report of findings and supported by the samples submitted by the Investigator; prepare a Record of Case Review for each case.	Within 10 work days of receipt	Commissioner	If penalty is NOT APPROVED, reassess or send Notice of Warning as recommended; resubmit any penalty reassessment for approval as before. Within 5 work days of receipt
Compliance Manager	If violative conditions do not warrant a civil penalty, prepare a Basis of Case Decision and send a Notice of Warning or cautionary letter to respondent; copy to Investigator; post in tracking docket.	Within 3 work days of completion of case review	Commissioner	Receive written request for FACT-FINDING CONFERENCE; appoint a Conference Officer as required; request Compliance Manager to schedule the conference with the respondent and Conference Officer. Within 5 work days of receipt of request
Compliance Manager	If violation warrants a CIVIL PENALTY, prepare a Basis of Case Decision, a penalty assessment explanation, and a Notice of Violation.	Within 3 work days of completion of case review	Compliance Manager	If a FACT-FINDING CONFERENCE is requested by respondent in writing to the Commissioner within 15 days after receipt of the Notice of Violation, schedule conference with appointed Conference Officer; notify respondent and Investigator of location, date and time; post in tracking docket. Within 5 work days after Commissioner appoints Conference Officer
Compliance Manager	IF CIVIL PENALTY IS \$2,500 OR LESS, mail to respondent along with payment statement and notification that the assessment can be appealed in a fact-finding conference authorized by § 9-6.14:11 of the Code of Virginia (the Code); post in tracking docket.	Within 3 work days of completion of case review	Conference Officer appointed by Commissioner	Hole FACT-FINDING CONFERENCE as requested to consider all relevant information on case; Officer may affirm, raise, lower, or abate a penalty, or may NEGOTIATE A SETTLEMENT based on new information; however, the Board must concur with any civil penalty adjustment greater than 25% of the original penalty, and any adjustment greater than \$500; inform the respondent of his right to appeal decision of this conference in an ADJUDICATIVE CONFERENCE, authorized by § 9-6.14:11 of the Code, when only a civil penalty is involved, or in a FORMAL HEARING, authorized by § 9-6.14:12 of the Code, when denial, suspension, revocation, or modification of a license, certificate, or registration is involved alone. Within 45 days of appointment as Conference Officer
Compliance Manager	IF CIVIL PENALTY IS GREATER THAN \$2,500, forward to Program Manager for review and approval.	Within 2 work days		

	<p>or in conjunction with a civil penalty; REQUEST FOR AN ADJUDICATIVE CONFERENCE OR FORMAL HEARING MUST BE MADE IN WRITING TO THE COMMISSIONER.</p>		<p>Compliance Manager</p>	<p>If FORMAL HEARING is requested by the respondent within 15 days after receiving decision of Fact-Finding Conference Officer, arrange for a Court-appointed attorney to act as Hearing Officer; schedule location; notify Investigator; post in tracking docket.</p>	<p>Within 5 work days after notification by Commissioner</p>
	<p>Conference Officer shall affirm, raise, lower, or abate penalty, or negotiate a settlement; notify the respondent of decision in writing; indicate if Board concurrence is required; notify Investigator of decision; post in tracking docket. Conference Officer shall transmit to the Board any civil penalty adjustment greater than 25% of the original penalty, and any adjustment greater than \$500; the Board shall review the decision and approve or deny the penalty adjustment.</p>	<p>Within 5 work days of conference date</p>		<p>Hold FORMAL HEARING as requested to hear relevant information about case.</p>	<p>Within 60 days of receipt of request for hearing</p>
		<p>At the next Board meeting</p>	<p>Court-Appointed Attorney</p>	<p>Hearing Officer shall consider the facts concerning the denial, suspension, revocation, or modification of a license, certificate, or registration, along with any associated civil penalty, and the facts of related violations presented as part of the same case; transmit findings and recommendations to the Board.</p>	<p>Within 15 work days of the hearing date</p>
Commissioner	<p>Upon written request for an ADJUDICATIVE CONFERENCE, appoint a Conference Officer; request Compliance Manager to schedule the conference with the respondent and Conference Officer.</p>	<p>Within 5 work days of receipt of request</p>		<p>Inform the respondent that the Board will hear final oral arguments (15 minutes maximum unless a longer period, not to exceed 30 minutes, is requested in writing), only upon written request to the Board within 15 days after date of the FORMAL HEARING.</p>	<p>Within 15 work days of hearing</p>
Compliance Manager	<p>If an ADJUDICATIVE CONFERENCE is requested by respondent within 15 days after receiving decision of Fact-Finding Conference Officer, schedule conference with appointed Conference Officer; arrange location of ADJUDICATIVE CONFERENCE; notify Investigator; post in tracking docket.</p>	<p>Within 5 work day after Commissioner appoints Conference Officer</p>			
			<p>Pesticide Control Board</p>	<p>Consider recommendations from ADJUDICATIVE CONFERENCE or FORMAL HEARING; Board may hear final arguments from VDACS and respondent before rendering decision; RESPONDENT MUST PETITION THE BOARD TO PRESENT ORAL ARGUMENTS (15 minutes maximum unless a longer period, not to exceed 30 minutes, is requested in writing).</p>	<p>At the next Board meeting after receipt of findings and recommendations</p>
Conference Officer appointed by Commissioner	<p>Hold ADJUDICATIVE CONFERENCE as requested to hear relevant information concerning the case. Officer shall consider all facts concerning a civil penalty, then transmit findings and recommendation to the Board.</p>	<p>Within 45 days of appointment by Commissioner Within 10 work days of conference date</p>		<p>Board shall render decision concerning a civil penalty and the status of a license, certificate, or registration; inform respondent that decision can be appealed to circuit court for judicial review; send copy of transcript and decision to the Office of Pesticide Management.</p>	<p>Within 10 work days of considering case</p>
	<p>Inform respondent that the Board will hear final oral arguments (15 minutes maximum unless a longer period, not to exceed 30 minutes, is requested in writing), only upon written request to the Board within 15 days after date of ADJUDICATIVE CONFERENCE.</p>	<p>Within 10 work days of conference date</p>			
Commissioner	<p>Upon written request for a FORMAL HEARING, request Compliance Manager to schedule hearing.</p>	<p>Within 5 work days of receipt of request</p>			

ALCOHOLIC BEVERAGE CONTROL BOARD

Notice to the Public

A. Pursuant to the Virginia Alcoholic Beverage Control Board's "Public Participation Guidelines for Adoption or Amendment of Regulations" (VR 125-01-1, § 5.1 of the Regulations of the Virginia Alcoholic Beverage Control Board), the board will conduct a public hearing on Wednesday, October 27, 1993, at 10 a.m., in the Board Hearing Room, First Floor, ABC Board Main Offices, 2901 Hermitage Road, Richmond, Virginia, to receive comments and suggestions concerning the adoption, amendment or repeal of board regulations. Any group or individual may file with the board a written petition for the adoption, amendment or repeal of any regulation. Any such petition shall contain the following information, if available.

1. Name of petitioner.
2. Petitioner's mailing address and telephone number.
3. General description of proposal, with recommendations for adoption, amendment or repeal of specific regulation(s).
4. Why is change needed? What problem is it meant to address?
5. What is the anticipated effect of not making the change?
6. Estimated costs or savings to regulated entities, the public, or others incurred by this change as compared to current regulations.
7. Who is affected by recommended change. How affected?
8. Draft language; and
9. Supporting documents.

The board may also consider any other request for regulatory change at its discretion. All petitions for requests for regulatory changes should be submitted to the board no later than Wednesday, June 30, 1993.

B. Petitions for regulatory change should be sent to Robert N. Swinson, Administrator to the Board, P.O. Box 27491, Richmond, Virginia 23261, or may be faxed to (804) 367-1802 if the original paperwork is also mailed.

C. Applicable laws or regulations (authority to adopt regulations): §§ 4-7(1), 4-11, 4-36, 4-69.2, 4-72.1, 4-98.14, 4-103(b) and 9-6.14:1 et seq., of the Code of Virginia; VR 125-01-1, § 5.1, Board Regulations.

D. Entities affected: (1) all licensees (manufacturers, wholesalers, importers, retailers) and (2) the general public.

E. For further information contact Robert N. Swinson, Administrator, at the above address or by telephone at (804) 367-0616.

AUDITOR OF PUBLIC ACCOUNTS

Specifications for Audits of Counties, Cities and Towns

The Auditor of Public Accounts (APA) has completed a draft of revisions to the Specifications for Audits of Counties, Cities and Towns. This draft is now available for public comment. See Calendar of Events section of the Virginia Register for information on public hearings.

Summary of Revisions and Manual Contents

Chapter 1 - Introduction. This chapter discusses the organization of the manual and the procedures used by the Auditor of Public Accounts in revising it. It also contains an order form for additional copies of the manual and other APA publications.

Chapter 2 - Authority for Audits. This chapter discusses the Auditor of Public Accounts' authority to issue audit and accounting specifications. The chapter has been updated to include changes in the Code of Virginia since the last revision of the manual, including changes required by House Bill 1330, adopted by the 1993 General Assembly. A summary of applicable standards for certain specialized audits (i.e., school cafeteria funds, authorities, boards, and commissions, etc.) was also added.

Significant policy changes include new procedures for submission of Comprehensive Annual Financial Reports (CAFRs) to state grantor agencies. The Auditor of Public Accounts currently acts as a clearinghouse for the distribution of CAFRs to state agencies. The discussion document proposes that local governments submit CAFRs directly to the appropriate grantor agencies, thereby removing the Auditor of Public Accounts from the distribution process. See Section 2-6 of the discussion document for further details.

Chapter 3 - Characteristics of Local Governments. This chapter provides an overview of local government operations in Virginia. Discussions in the current manual are limited to counties. The 1993 revision has been expanded to include cities and towns.

Chapter 4 - Authoritative Literature. This is a new chapter designed to provide an overview of existing authoritative literature for local governments. This literature has been grouped into three broad categories: (1) accounting principles; (2) auditing standards; and (3) the requirements of OMB Circular A-128, Audits of State and Local Governments. A discussion of relevant sources is included for each category. Appendices containing copies of the Single Audit Act of 1984, OMB Circular A-128, and the detailed listing of applicable accounting standards have been deleted from the 1993 revision. Section 4-7 contains addresses for ordering this information.

Chapter 5 - Procurement or Audit Services. This is a new chapter discussing the procurement of audit services. It details the elements necessary to establish a sound procurement process and ensure compliance with federal and state laws and regulations. A revised sample request

General Notices/Errata

for proposal and audit contract are included as appendices to this chapter.

Chapter 6 - Internal Controls and Compliance. This is a new chapter discussing the auditor's responsibilities relative to internal controls, compliance, and the detection of errors, irregularities and illegal acts. Rather than impose additional requirements, it seeks to clarify existing standards in these areas. It also discusses the Auditor of Public Accounts' expectations as to working paper documentation for these areas.

Chapter 7 - Quality Control Program. This is a new chapter describing the Auditor of Public Accounts' quality control program for local government audits. It incorporates procedures previously issued in memorandum format. Chapter 7 includes the Auditor of Public Accounts' policies and procedures for desk reviews of CAFRS and for quality control reviews of the CPAs working papers. Appendices containing the sample quality control reports and review program have been deleted from the 1993 revision. The quality control review program is currently available upon request from the Auditor of Public Accounts.

Significant policy changes include:

a. New procedures for the approval of CAFRs. Effective for FY 93, the Auditor of Public Accounts will no longer approve CAFRs. As part of its quality control program, the Auditor of Public Accounts will perform a desk review of CAFRs and will communicate significant findings to the governing body and affected state agencies at the completion of the review. However, payment of audit fees is no longer contingent upon approval by the Auditor of Public Accounts. See Section 7-2 of the discussion document for further details.

b. New procedures for the review of draft CAFRs. The Auditor of Public Accounts will review draft CAFRs only upon the request of the local government or its auditors. Individuals who submit drafts will be given a reasonable period of time to make changes and submit final copies of the report. See Section 7-2 of the discussion document for further details.

c. New procedures for the communication of findings resulting from quality control reviews of local government audits. The Auditor of Public Accounts will notify local governments of the review only if it discloses significant audit failure. (The results of all quality control reviews are open for public inspection at the Auditor of Public Accounts.) A provision for notifying affected state and federal grantor agencies was also added to the chapter. See Section 7-6 of the discussion document for further details.

Chapter 8 - Required Audit Procedures. This chapter contains required audit procedures for local governments audits in Virginia. An appendix summarizes all required

procedures contained in this chapter. The most significant change to this chapter is the deletion of a substantial number of required audit procedures. Many of the required procedures in the current specifications provided evidential matter to support the auditor's opinion on the financial statements. Changes to auditing standards have eliminated the need for such detailed procedures. The procedures listed in this discussion document are limited to procedures required by the APA that are in addition to those required by other standards, and are designed to meet the special needs of local governments in Virginia.

Significant changes to the required audit procedures include the addition of a requirement that auditors:

a. Include constitutional officers in the scope of the audit as required by House Bill 1330. See Sections 8-2 of the discussion document for further details.

b. Submit three copies of the CAFR to the Auditor of Public Accounts upon release or issuance, but no later than the day after the public hearing required by § 15.1-167 of the Code of Virginia. See Sections 8-29 of the discussion document for further details.

c. Perform agreed upon procedures for transmittal forms. See Section 8-31 of the discussion document for further details.

Chapter 9 - Required Audit Procedures for State Compliance. This new chapter contains required audit procedures for determining compliance with certain state laws, regulations and policies. The Auditor of Public Accounts has been working with various state agencies to incorporate state compliance issues into the local government audit, thereby eliminating the need for separate program audits. Chapter 9 reflects our efforts in this area. An appendix summarizes all required procedures contained in the chapter.

Significant changes to the required audit procedures include:

a. The incorporation of procedures for highways maintenance funds, community diversion incentive funds, and the Route 28 Transportation Improvement District previously issued in memorandum format.

b. New requirements for the Virginia Conflicts of Interest Act, Unclaimed Property Act, social services programs and economic development opportunity funds.

Chapter 10 - Treasurer's Turnover Audits. This chapter provides background information and required audit procedures for treasurer's turnover audits. Turnover audits are required to determine accountability whenever a treasurer, or director of finance acting as treasurer, leaves office. The 1993 revision includes a revised auditor's report reflecting changes in auditing standards since the issuance of the current specifications.

Audit and Accounting Alerts. This section was added to allow for the insertion of audit and accounting alerts issued by the Auditor of Public Accounts.

DEPARTMENT OF HEALTH

Maternal and Child Health Block Grant Application Fiscal Year 1994

The Virginia Department of Health will transmit to the federal Secretary of Health and Human Services by July 16, 1993, the Maternal and Child Health Services Block Grant Application for the period October 1, 1993, through September 30, 1994, in order to be entitled to receive payments for the purpose of providing maternal and child health services on a statewide basis. These services include:

1. Preventive and primary care services for pregnant women, mothers and infants up to age 1.
2. Preventive and primary care services for children and adolescents.
3. Family-centered, community-based, coordinated care and the development of community-based systems of services for children with special health care needs.

The Maternal and Child Health Services Block Grant Application makes assurance to the Secretary of Health and Human Services that the Virginia Department of Health will adhere to all the requirements of Section 505, Title V-Maternal and Child Health Services Block Grant of the Social Security Act, as amended. To facilitate public comment, this notice is to announce a period from May 31 through June 29, 1993, for review and public comment on the Block Grant Application. Copies of the document will be available as of May 31, 1993, in the office of the director of each county and city health department. Individual copies of the document may be obtained by contacting Ms. Susan Brown Davis at the following address; written comments must be addressed to Ms. Davis and received by June 29, 1993, at the following address:

Virginia Department of Health
Division of Maternal and Child Health
1500 East Main Street, Room 137
Richmond, Virginia 23219
(804) 786-7367
FAX (804) 371-6032

VIRGINIA CODE COMMISSION

Notice to the Public

The 1993 General Assembly enacted legislation (Chapter 735) which established August 15, 1993, as the last day on which state agencies may file with the Registrar of Regulations, regulations and other written statements

subject to the Virginia Register Act. Chapter 735 further states that if such documents are not filed by that date, they shall cease to have the force of the law and shall not be enforceable. Filing such regulations or other written statements will not render them enforceable if, in fact, such documents will need to be promulgated under the provisions of the Administrative Process Act.

All state agencies were provided with a copy of the 1993 legislation and the letter set out below.

General Notices/Errata



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

JOAN W. SMITH
REGISTRAR OF REGULATIONS

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

March 30, 1993

MEMORANDUM

TO: Heads of State Agencies and Regulatory Coordinators
FROM: Joan W. Smith *JWS*
RE: Senate Bill No. 639 - Filing of Certain Documents

The 1993 General Assembly enacted legislation which establishes August 15, 1993 as the last day that an agency can file documents with this office which meet certain specified criteria. After that date, such documents will be unenforceable unless the agency has complied with the Virginia Register Act and, if applicable, the Administrative Process Act. Copies of Senate Bill No. 639 (Chapter 735) and The Virginia Register Act as amended in 1993, are enclosed for your information.

You are urged to review all documents that are currently being enforced and which meet the following requirements:

1. Documents which are subject to the Virginia Register Act;
2. Documents which have general application; and
3. Documents which currently are being enforced as having the force of law.

You will note that the Register Act defines "Rule or Regulation" as "... any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic law."

Also enclosed is a fact sheet which can be used to help determine which documents will have to be filed.

I strongly urge you to have the Attorney General's Office assist you in making the determination on which documents will need to be filed and published, and especially, which of those documents will need to be promulgated under the Administrative Process Act.

JWS/jbc
Enclosures

Notice of Request for Proposal

(The Notice of RFP was published on Sunday, May 16, 1993, in the Richmond Times-Dispatch, The Roanoke Times, the Norfolk-Virginian Pilot and the Washington Post.)

NOTICE OF REQUEST FOR PROPOSAL

The Virginia Code Commission is seeking proposals from qualified law publishers for the development, compilation and publication of a Virginia Administrative Code, which will include the regulations of state agencies of the Commonwealth of Virginia. The selected publisher will be expected to perform certain editorial work and to develop, along with the Code Commission, a system of codification and indexing of the regulatory laws of Virginia. The proposal requires a statement of qualifications, including previous experience in legal publishing. A RFP may be obtained from:

*Joan W. Smith
Registrar of Regulations
Virginia Code Commission
General Assembly Building
Capitol Square
Richmond, Virginia 23219
(804) 786-3591*

A pre-proposal conference will be conducted by the Commission at the General Assembly Building on Wednesday, June 16, 1993.

Sealed proposals will be received at the above address until July 1, 1993.

General Notices/Errata

1993 SESSION

VIRGINIA ACTS OF ASSEMBLY - CHAPTER 735

An Act to require state agencies to file all regulations and other statements having the force of law, all of which are subject to the Register Act.

[S 639]

Approved MAR 28 1993

Whereas, the Virginia Register Act, Chapter 1.2 (§ 9-6.15 et seq.) of Title 9 of the Code of Virginia, defines "rule or regulation" to mean "any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws"; and

Whereas, under the Virginia Register Act, it is the duty of every agency to have on file with the Registrar the full text of all of its currently operative regulations and such information regarding any regulations as may be requested by the Virginia Code Commission; and

Whereas, some state agencies subject to the Virginia Register Act are currently enforcing their regulatory powers through regulations which have not been properly filed with the Registrar and by issuing written statements including but not limited to "resolutions," "administrative letters," "directives," "state plans," "manuals," or "policies, procedures and guidelines" which are intended by such agency to have the force of law and have general application but are not on file with the Registrar; and

Whereas, the General Assembly authorized the Virginia Code Commission to arrange for the publication of a Code of Administrative Regulations when the Code Commission determines that the publication would be in the best interests of the citizens of the Commonwealth; and

Whereas, the Code Commission has found that the entire regulatory law should be accessible and readily and economically available to the citizens, who have both the right and the need to know the regulatory law as promulgated and enforced by the various state agencies; and

Whereas, the Virginia Code Commission through the Registrar of Regulations is developing a database which will include the full text or text by reference of all the regulatory law required to be filed under the Virginia Register Act so that a publisher may use the electronic tape to create a regulatory code; and

Whereas, the Registrar needs to have all regulations and written statements of general application having the force of law in order to develop and maintain the database; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. All state agencies which are subject to the filing requirements of the Virginia Register Act, Chapter 1.2 (§ 9-6.15 et seq.) of Title 9 of the Code of Virginia, shall have properly filed for publication by August 15, 1993, with the Registrar of Regulations all regulations or other written statements, including but not limited to resolutions, administrative letters, directives, state plans, manuals, or policies, procedures and guidelines, which are subject to the Virginia Register Act, which have general application, and which currently are being enforced as having the force of law. If such regulations or other written statements are not filed by August 15, 1993, they shall cease to have the force of law and shall not be enforceable. The filing of such regulations or other written statements pursuant to this section shall not be deemed to give to any such regulation or other written statement the force of law and render it enforceable if it is otherwise unenforceable.

§ 2. The Registrar of Regulations shall assist each state agency in its filing as required in § 1 by delivering a listing which identifies all such regulations and other written statements of that agency which are on file in the Registrar's office. Such listing shall be delivered to each agency by July 1, 1993. Each agency shall return a copy of the listing to the Registrar certifying that all such regulations and other written statements which the agency is currently enforcing are either (i) contained in the listing or (ii) not contained in the listing. If the listing does not contain all such regulations and other written statements, the agency shall properly file with the Registrar by the August 15 deadline such regulations and other written statements that were not on the list.

2. That an emergency exists and this act is in force from its passage.

NOTICE TO STATE AGENCIES

Mailing Address: Our 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 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

CHILD DAY-CARE COUNCIL

Title of Regulation: VR 175-08-01. Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger.

Publication: 9:16 V.A.R. 2443-2496 May 3, 1993.

Correction to Proposed Regulation:

- Page 2449, § 2.16 C, line 2 after "and" insert "[made]"
Page 2449, § 2.17, column 2, subdivision 12 after "Enrollment" insert "[and]"

Page 2455, § 4.1 A, line 3, after "buildings or" delete "§s" and insert "sections"

Page 2456, § 4.3, move "3. Maintained in operable condition." after "[Exception: Montessori preschools may meet the alternative requirements in the Montessori Module.]"

Page 2468, § 7.23, line 3 change "filed" to "field"

Title of Regulation: VR 175-09-01. Minimum Standards for Licensed Child Day Centers Serving School Age Children.

Publication: 9:16 V.A.R. 2497-2546 May 3, 1993.

Correction to Proposed Regulation:

- Page 2498, definition of "Child Day Center," Exemptions, subdivision 2 after "2. A program where," insert "by"
Page 2501, § 2.8 after "public liability" insert "[insurance]"
Page 2504, § 2.27 A, second paragraph, line 10 after "MCH 213B" insert "[or MCH 213C]"
Page 2506, § 3.8, line 5 after "possess" insert "[one of the following]"
Page 2508, § 4.1 C 1 a should read: "[a. Response actions to remove all asbestos containing materials have been completed; or]"
Pages 2509, § 4.1 C 1 b after "maintenance plan will be followed" strike ";" and insert "[, appropriate staff will receive the necessary training and documentation of required inspections will be completed.]"
Page 2509, § 4.1 C 1 c and d should be stricken as follows:

[b. Appropriate staff will receive the necessary training; and

e. Documentation of required quarterly inspections will be completed.]

Page 2513, § 5.1, line 2 after "staff member" insert "[on-site]"

Page 2519, § 7.9 E, line 1 after "changed on" strike "an appropriate" and insert "a"

Page 2523, § 8.28, line 2 after "crosswalks" insert "[or other designated safe crossing point if no corner or crosswalk is available]"

Page 2525, § 9.9, line 5 after "skills according" insert

General Notices/Errata

“to”

STATE CORPORATION COMMISSION

Title: Administrative Letter 1993-9 RE: Building Ordinance or Law Coverage dated April 19, 1993.

Publication: 9:17 V.A.R. 2974 May 17, 1993.

Correction to Administrative Letter:

Page 2974, column 2, Notice – Additional Coverage Available, line 1 after “Coverage can” delete “not” and insert “now”

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

† August 17, 1993 - 1 p.m. - Public Hearing
Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Aging intends to amend regulations entitled: **VR 110-01-02. Grants to the Area Agencies on Aging.** The purpose of the proposed amendments are to delete requirements for the operation of local ombudsman entities and make revisions to comply with the 1992 amendments to the Older Americans Act.

STATEMENT

Basis, purpose, substance, issues and impact: The Older Americans Act of 1965, as amended, requires the Department for the Aging to divide the state into planning and service areas and to designate for each such area a public or private nonprofit agency or organization as the area agency on aging for such area. Such actions are necessary in order for Virginia to participate in programs of grants from allotments under Title III of the Older Americans Act. To meet this requirement, the department has defined the boundaries of 25 planning and service areas in Virginia and has designated an area agency on aging in each area.

As a condition of its designation by the Virginia Department for the Aging, an area agency on aging must

prepare and develop an area plan for aging services for its planning and service area. This plan is for a period determined by the department. It must comply in content and format with the guidelines issued by the department. Each area agency on aging must adopt and implement such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, federal and state funds used to achieve the purposes of Title III of the Older Americans Act, including any such funds paid to the recipients of a grant/contract from the area agency on aging.

The regulation, as amended, consists of four parts. The purpose of each part is as follows:

1. Part I describes the purpose of the regulation and defines the terms used.
2. Part II concerning area agencies on aging sets forth the methods for (i) designating a planning and service area and an area agency on aging and (ii) suspending or terminating the designation of any area agency on aging.
3. Part III concerning area plans for aging services regulates the process by which an area agency on aging develops and implements its area plan for aging services.
4. Part IV concerning the financial management of area agencies on aging provides policies and standards to be followed by an area agency on aging in the administration of federal and state grants to provide social and nutrition services to older persons.

The regulation, as amended, affects the 25 area agencies on aging in Virginia. Of the 25 area agencies, 14 are private nonprofit corporations and 11 are agencies sponsored by governmental entities. Of the 11 government-sponsored area agencies, five are units of general purpose local governments, five were created through the joint exercise of powers, and one is a unit of a community services board.

Implementation of and compliance with the amended regulation will not entail additional cost to the area agencies on aging. The Department for the Aging will not incur additional costs to implement and enforce the regulation.

The amended regulation will not have an impact on small businesses as defined in § 9-199 of the Code of Virginia.

Statutory Authority: § 2.1-373 of the Code of Virginia.

Calendar of Events

Written comments may be submitted until August 14, 1993.

Contact: J. James Cotter, Division Director, Virginia Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271 or toll-free 1-800-552-4464.

Long-Term Care Ombudsman Program Advisory Council

† **June 22, 1993 - 9:30 a.m. - Open Meeting**
The Virginia Association of Homes for Adults, Inc., Suite 101, United Way Building, 224 West Broad Street, Richmond, Virginia. ☒

Business will include further discussion on the goals and objectives for the Virginia Long-Term Care Ombudsman Program and Elder Rights.

Contact: Etta V. Hopkins, Assistant State Ombudsman, Virginia Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271, toll-free 1-800-552-3402, or (804) 225-2271/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

June 30, 1993 - 1 p.m. - Open Meeting
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

At this regular meeting, the board plans to discuss 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 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy E. Seward, Secretary to the Board, identified in this notice at least 10 days before the meeting date, so that suitable arrangements can be made for any appropriate accommodation.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD ☎

* * * * *

June 25, 1993 - Written comments may be submitted until this date.

June 30, 1993 - 1 p.m. - Public Hearing
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Board Room, Room 204, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-04-28. Regulations Governing the Oxygenation of Gasoline.** The purpose of the proposed regulation is to ensure that motor fuels dispensed in this Commonwealth comply with any oxygenation requirements specified by the federal Clean Air Act pertaining to motor fuels. The 1990 amendments to the federal Clean Air Act require states with carbon monoxide nonattainment areas with design values¹ of 9.5 parts per million (ppm) or more to implement an oxygenated gasoline program in all such designated nonattainment areas. Title II of the 1990 amendments to the federal Clean Air Act requires that states institute an oxygenated gasoline program by establishing "control areas" in any Metropolitan Statistical Area (MSA) which contains one or more carbon monoxide nonattainment areas. Pursuant to such provisions, the Department of Air Pollution Control has designated as the control area the Virginia counties within the Washington, D.C. Metropolitan Statistical Area (MSA) consisting of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the Virginia cities within the Washington, D.C. MSA consisting of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

The oxygen content requirement applies during the portion of the year in which the control area is prone to high ambient concentrations of carbon monoxide. The Environmental Protection Agency has established this control period (which the Board of Agriculture and Consumer Services anticipates will recur annually) to be, in the case of Virginia, a specified four months out of twelve. In Virginia this control period will begin on November 1 of one year and continue through the last day of February of the following year.

The proposed regulation (i) specifies carbon monoxide nonattainment areas; (ii) specifies the control area; (iii) specifies the control period; (iv) specifies a minimum oxygenate content in gasoline during the control period; (v) requires all persons regulated to keep records of classes of oxygenates and oxygenate content; (vi) requires gasoline pump labelling; (vii) specifies methods of sampling, testing, and oxygen content calculations; and (viii) specifies means of compliance and methods of enforcement.

¹ Design value means the calculation which is used to derive the number of carbon monoxide parts per million in the air in order to determine whether an area shall be designated a carbon monoxide nonattainment area.

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Contact: J. Alan Rogers, Program Manager, Office of

Weights and Measures, Department of Agriculture and Consumer Services, 1100 Bank St., Room 402, Richmond, VA 23219, telephone (804) 786-2476.

Virginia Egg Board

June 25, 1993 - 3:30 p.m. - Open Meeting
The Cavalier Hotel, Ocean Front at 42nd Street, Oceans Room, Virginia Beach, Virginia. ☐

The board will meet to discuss issues related to the egg industry and the Virginia Egg Board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Cecilia Glembocki, Program Director, at least 5 days prior to the meeting date, so that suitable arrangements can be made for any appropriate accommodation.

Contact: Cecilia Glembocki, Program Director, 911 Saddleback Court, McLean, VA 22102, telephone (703) 734-8931.

Virginia Marine Products Board

June 22, 1993 - 5:30 p.m. - Open Meeting
Nick's Steak and Spaghetti House, Route 17, Gloucester Point, Virginia. ☐

The board will meet to receive reports from the executive director of the Virginia Marine Products Board on (i) finance; (ii) marketing; (iii) past and future program planning; (iv) publicity/public relations; and (v) old and new business. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: Shirley Estes, Executive Director, 554 Denhigh Boulevard, Suite B, Newport News, VA 23602, telephone (804) 874-3474.

Virginia Peanut Board

† **June 24, 1993 - 11 a.m. - Open Meeting**
Tidewater Research Station, Holland Station, Suffolk, Virginia. ☐

A meeting to (i) receive the chairman's report; (ii) review 1993-94 budget; and (iii) elect officers for 93-94. Any person who needs any accommodation in order to participate at the Peanut Board meeting should contact the program director identified in this notice at least four days before the Peanut Board meeting date, so that suitable arrangements can be made for any appropriate accommodation. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: Russell C. Schools, Program Director, P.O. Box 356, Capron, VA 23829, telephone (804) 658-4573.

Winegrowers Advisory Board

July 6, 1993 - 10 a.m. - Open Meeting
State Capitol, 910 Capitol Square, House Room 1, Richmond, Virginia. ☐

A meeting to hear committee and project monitor reports and review old and new business. Any person who needs any accommodation in order to participate at the Virginia Winegrower's Advisory Board meeting should contact Wendy Rizzo, identified in this notice at least 14 days before the meeting date, so that suitable arrangements can be made for any appropriate accommodation.

Contact: Wendy Rizzo, Secretary, 1100 Bank Street, Room 1010, Richmond, VA 23219, telephone (804) 371-7685.

STATE AIR POLLUTION CONTROL BOARD

June 19, 1993 - Written comments may be submitted until close of business on 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 (Revision MM)**. The regulation requires that owners obtain a permit prior to the construction of a major industrial/commercial facility or an expansion to an existing one locating in a prevention of significant deterioration area. The regulation prescribes the procedures and criteria for review and final action on the permit application. The proposed amendments are being made in order to make the state prevention of significant deterioration regulation conform to the federal requirements for prevention of significant deterioration new source review program.

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

Written comments may be submitted until close of business June 19, 1993, to Director of Air Quality Program Development, Department of Environmental Quality, P.O. Box 10089, Richmond, Virginia. The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Contact: Karen Sabasteanski, Policy Analyst, Air Quality Program Development, Department of Environmental Quality, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1624.

* * * * *

July 13, 1993 - 7 p.m. - Public Hearing
Osborn High School Lecture Room, 9005 Tudor Lane, Manassas, Virginia.

Calendar of Events

July 14, 1993 - 7 p.m. – Public Hearing
College of William and Mary, Millington Auditorium,
Williamsburg, Virginia.

July 15, 1993 - 7 p.m. – Public Hearing
Virginia Western Community College, 3095 Colonial Avenue,
S.W., Whitman Auditorium, Roanoke, Virginia.

July 30, 1993 - Written comments may be submitted until
close of business on 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 (Rev. HH – §§ 120-05-0601 through 120-05-0618, Standards of Performance for Regulated Medical Waste Incinerators)**. The regulation amendments concern provisions covering standards of performance for regulated medical waste incinerators. The proposal will require owners of regulated medical waste incinerators to limit emissions of dioxins/furans, particulate matter, carbon monoxide, and hydrogen chloride to a specified level necessary to protect public health and welfare. This will be accomplished through the establishment of emissions limits and process parameters based on control technology; ambient limits to address health impacts; and monitoring, testing, and recordkeeping to assure compliance with the limits. Comparison with federal requirements: No federal requirements affect the proposal; therefore, the proposal is more stringent than federal requirements. The regulation is being promulgated in the absence of a federal requirement because the 1992 General Assembly of Virginia passed legislation to impose a moratorium on the issuance of permits for commercial regulated medical waste incinerators (MWIs) until September 1, 1993, and to require the promulgation of regulations by September 1, 1993. The legislation was proposed in response to health concerns from commercial MWI emissions. This legislation was again submitted to the General Assembly in the 1993 session, and a new version extending the original moratorium for the issuance of permits for commercial infectious waste incinerators (i.e., MWIs) from September 1, 1993, to December 1, 1993, was passed. However, the deadline for promulgation of regulations remains September 1, 1993. Additional issues for public comment: (i) The proposed regulation provides different levels of controls and different requirements for different sizes of units. This is done because the economic burden of greater controls and requirements on smaller sources outweighs the net return of emissions reductions and environmental benefit. Generally, smaller sources do not pollute as much as larger sources; further, a large source is better capable of affording pollution control equipment. The Board seeks input on this practice—is a tiered approach to emission controls based on source size appropriate, or should the standards be

uniform, for all source sizes? (ii) The proposed regulation proposes two ways in which dioxins and furans are to be controlled: a stack limit (a certain emissions level measured at the stack) and an ambient limit. The ambient limit provides an expanded view of what happens to the emissions after they have left the stack and dispersed over the local area. In the past, for most facilities emitting toxics, the ambient level has been measured at the place where the public is most likely to come in immediate contact with the emissions: at or beyond the facility's fence line. Some facilities, however, provide access to the general public, such as health care facilities. Other facilities may have property located relatively close to public facilities or housing. The Board seeks comment on whether the ambient dioxin/furan level should be measured at or beyond the fence line, within the facility property, or some place else? (iii) The Board seeks specific comments on implementing the regulation relative to the overall cost of the delivery of medical services to the general public. Location of proposal: The proposal, an analysis conducted by the Department (including: a statement of purpose, a statement of estimated impact of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the Department's Air Division Programs Office (Eight Floor, Ninth Street Office Building, 200-202 North Ninth Street, Richmond, Virginia) and at any of the Department's air regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Regional offices: (i) Southwestern Virginia Air Regional Office, 121 Russell Road, Abingdon, Virginia 24210, Ph: (703) 676-5482; (ii) Valley of Virginia Air Regional Office, Executive Office Park, Suite D, 5338 Peters Creek Road, Roanoke, Virginia 24019, Ph: (703) 561-7000; (iii) Central Virginia Air Regional Office, 7701-03 Timberlake Road, Lynchburg, Virginia 24502, Ph: (804) 582-5120; (iv) Northeastern Virginia Air Regional Office, 300 Central Road, Suite B, Fredericksburg, Virginia 22401, Ph: (703) 899-4600; (v) State Capital Air Regional Office, Arboretum V, Suite 250, 9210 Arboretum Parkway, Richmond, Virginia 23236, Ph: (804) 323-2409; (vi) Hampton Roads Air Regional Office, Old Greenbrier Village, Suite A, 2010 Old Greenbrier Road, Chesapeake, Virginia 23320-2168, Ph: (804) 424-6707; and (vii) Northern Virginia Air Regional Office, Springfield Corporate Center, Suite 310, 6225 Brandon Avenue, Springfield, Virginia 22150, Ph: (703) 644-0311.

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

Written comments may be submitted until the close of business on July 30, 1993, to Director of Program Development, Air Division, Department of Environment;

Quality, P.O. Box 10089, Richmond, Virginia 23240. The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Contact: Karen Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1624.

ALCOHOLIC BEVERAGE CONTROL BOARD

June 21, 1993 - 9:30 a.m. - Open Meeting
July 8, 1993 - 9:30 a.m. - Open Meeting
July 23, 1993 - 9:30 a.m. - Open Meeting
August 2, 1993 - 9:30 a.m. - Open Meeting
August 16, 1993 - 9:30 a.m. - Open Meeting
2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

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

† June 29, 1993 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to review and adopt proposed regulations.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

Board for Land Surveyors

† June 16, 1993 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to discuss continuing education.

Contact: Willie Fobbs, III, Board Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

July 2, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Audiology and Speech-Language Pathology intends to amend regulations entitled: VR 155-01-2:1. **Regulations of the Board of Audiology and Speech-Language Pathology.** The purpose of the proposed amendments is to delete expired requirements and incorporate legislation effective July 1, 1992.

Statutory Authority: §§ 54.1-2400 and 54.1-2602 of the Code of Virginia.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-7390.

BOARD FOR BRANCH PILOTS

† June 15, 1993 - 1 p.m. - Open Meeting
Virginia Port Authority Building, Norfolk, Virginia. ☒

A regular quarterly business meeting for the Board for Branch Pilots.

Contact: Willie Fobbs, III, Board Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

VIRGINIA CANCER REGISTRY ADVISORY COMMITTEE

June 30, 1993 - 1 p.m. - Open Meeting
Virginia Department of Health, Main Street Station, 1500 East Main Street, Richmond, Virginia.

The advisory committee meets annually to assess the status of the Virginia Cancer Registry. It advises the staff on broad areas of policies and goals such as data collection and reporting of data. The committee also advises on the more technical aspect of registry operations which need a consensus of opinion. The committee also serves as a liaison to member hospitals in the Commonwealth of Virginia.

Contact: Margaret G. Thompson, Director, Virginia Department of Health, Virginia Cancer Registry, Main Street Station, 1500 E. Main St., Richmond, VA 23219, telephone (804) 786-4937.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

June 25, 1993 - 10 a.m. - Open Meeting
Middle Peninsula Planning District Commission Offices, Business Route 17, Saluda, Virginia. ☒ (Interpreter for the deaf provided upon request)

The board will conduct general business, including consideration of local Chesapeake Bay Preservation

Calendar of Events

Area programs. Public comment will be taken early in the meeting. Following the business meeting, the board will take a field trip to observe agriculture practices.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or 1-800-243-7229/TDD ☎

Central Area Review Committee

June 30, 1993 - 10 a.m. - Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☒ (Interpreter for the 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 committee meeting; however, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Northern Area Review Committee

July 1, 1993 - 10 a.m. - Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☒ (Interpreter for the 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 committee meeting; however, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Southern Area Review Committee

June 21, 1993 - 1:30 p.m. - Open Meeting
City of Hampton Planning Office, Harbor Center Building, 2 Eaton Street, 9th Floor, Conference Room, Hampton, Virginia. ☒ (Interpreter for the 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 committee meeting; however, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

June 18, 1993 - 8:30 a.m. - Open Meeting
Ninth Street Office Building, 202 North 9th Street, Governor's Cabinet's Conference Room, 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, Office of the Coordinator, Interdepartmental Regulation, 730 East Broad St., Richmond, VA 23219-1849, telephone (804) 662-7124 (after May 2, 1993 (804) 692-1960).

DEPARTMENT OF CONSERVATION AND RECREATION

Cave Board

† June 19, 1993 - 1 p.m. - Open Meeting
State Capitol, House Room 2, Richmond, Virginia. ☒

A regularly scheduled meeting of the Virginia Cave Board which serves in an advisory capacity to the Department of Conservation and Recreation on matters relating to cave management, protection, research and inventory.

Contact: Larry Smith, Natural Areas Program Manager, Department of Conservation and Recreation, Division of Natural Heritage, Main St. Station, 1500 E. Main St., Suite 312, Richmond, VA 23219, telephone (804) 371-6205.

BOARD FOR CONTRACTORS

Applications Review Committee

June 22, 1993 - 9 a.m. - Open Meeting
3600 West Broad Street, Room 395, Richmond, Virginia. ☒

A meeting to review applications with convictions and/or complaints for Class A and Class B contractor's licenses.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

Recovery Fund Committee

June 16, 1993 - 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 will be open to the public; however, a portion of the discussion may be conducted in Executive Session.

Contact: Holly Erickson, Assistant Administrator, Recovery Fund, 3600 W. Broad St., Richmond, VA 23219, telephone (804) 367-8561.

Regulatory/Statutory Review Committee

† **June 25, 1993 - 9 a.m.** – Open Meeting
3600 West Broad Street, Conference Room 4A, Richmond, Virginia. ☒

A meeting to determine needed changes, additions, revisions in procedures, requirements, and standards applicable to Class B and Class A licenses.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

† **June 16, 1993 - 10 a.m.** – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

A regular monthly meeting to consider such matters as may be presented.

Contact: Vivian T. Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Liaison Committee

† **July 22, 1993 - 9:30 a.m.** – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

The committee will continue to address and discuss criminal justice issues.

Contact: Vivian T. Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

June 21, 1993 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

June 28, 1993 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A regulatory review and working committee concerning cosmetology instructors.

Contact: Karen O'Neal, Assistant Director, Board for Cosmetology, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

BOARD OF DENTISTRY

June 18, 1993 - 8:30 a.m. – Open Meeting
6606 West Broad Street, Richmond, Virginia. ☒

Informal conferences.

Contact: Marcia J. Miller, Executive Director, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9906.

DISABILITY SERVICES COUNCIL

NOTE: CHANGE IN MEETING LOCATION

June 17, 1993 - 2 p.m. – Open Meeting
State Capitol, House Room 1, Richmond, Virginia. ☒
(Interpreter for the deaf provided upon request)

A meeting to review the 44 local disability services boards' reports on the needs and priorities of persons with physical and sensory disabilities.

Contact: Linda Lohrman, Agency Management Lead Analyst, Virginia Department of Rehabilitative Services, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0282 or toll-free 1-800-552-5019/TDD ☒

DEPARTMENT OF EDUCATION (BOARD OF)

June 24, 1993 - 8:30 a.m. – Public Hearing
James Monroe Building, 101 North 14th Street, Richmond, Virginia.

July 17, 1993 – 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 Board of Education intends to amend regulations entitled: **VR 270-01-0009. Regulations Governing Literary Loan Applications in Virginia.** The purpose of the proposed amendments is to (i) include language required by the 1989 and 1990 sessions of the General Assembly relating to the ceiling on indebtedness to the fund and consolidation incentives; (ii) include changes by the 1991 session to § 22.1-140 of the Code of Virginia; and (iii) increase the maximum loan amount available for constructing a new single school from \$2.5 million to \$5 million.

Statutory Authority: §§ 22.1-140 and 22.1-142 of the Code of

Calendar of Events

Virginia, § 8 of Article VIII of the Constitution of Virginia.

Contact: Kathryn S. Kitchen, Division Chief, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2025.

* * * * *

June 18, 1993 - Written comments may be submitted through this date.

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 270-01-0055. Regulations for the Protection of Students as Participants in Human Research.** The regulations are designed to ensure that the rights of students who may become subjects of research are protected. The regulations specifically address the rights of students in the areas of personal privacy and informed consent. These rights are protected by means of the creation in each school entity of a review board to oversee all research involving students that is conducted within the realm of its authority.

Statutory Authority: § 22.1-16.1 of the Code of Virginia.

Contact: Lawrence McCluskey, Lead Specialist, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2762.

* * * * *

June 19, 1993 - Written comments may be submitted through this date.

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 270-01-0057. Special Education Program Standards.** These regulations set standards for special education programs for children with disabilities in Virginia. Criteria are set forth for teaching endorsements, waivers for certain educational interpreters, and program models for school-age and preschool-age students.

Statutory Authority: § 22.1-214 of the Code of Virginia.

Contact: Dr. Patricia Abrams, Principal Specialist, Special Education, Virginia Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2874, toll-free 1-800-292-3820 or toll-free 1-800-422-1098/TDD ☎

BOARDS OF EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; SOCIAL SERVICES; AND YOUTH AND FAMILY SERVICES

July 16, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Boards of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services intend to amend regulations entitled: **VR 270-01-0003, VR 470-02-01, VR 615-29-02, VR 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.** This regulation is designed to assure adequate care, treatment, and education are provided by residential facilities for children. The proposed revisions amend and clarify requirements governing intake and service planning.

Statutory Authority: §§ 16.1-311, 22.1-321, 22.1-323.2, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 66-10 and 66-24.

Written comments may be submitted through July 16, 1993, to Rhonda M. Harrell, Office of Interdepartmental Regulation, 730 East Broad Street, Richmond, Virginia 23219-1849.

Contact: John J. Allen, Jr., Coordinator, Office of Interdepartmental Regulation, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1960.

LOCAL EMERGENCY PLANNING COMMITTEE - GOOCHLAND COUNTY

June 15, 1993 - 7 p.m. - Open Meeting
General District Courtroom, Goochland Courthouse Complex, Goochland, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular semi-annual meeting of the LEPC with review of current Hazardous Materials Emergency Response Plan. Mr. Harry E. Colestock, VERC, will be present to assist with plan review.

Contact: Gregory K. Wolfrey, Emergency Coordinator, County Administrator, P.O. Box 10, Goochland, VA 23063, telephone (804) 556-5300 or (804) 556-5300/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - HANOVER COUNTY

June 14, 1993 - 9 a.m. - Open Meeting
Hanover Fire Company 5, Route 1004 at Route 301 N., Hanover, Virginia ☎

A meeting to discuss the following: (i) emergency plan update and reports; (ii) update on this year's Haz-Mat transportation exercise scheduled for early fall; (iii) Hazardous Materials Transportation Uniform Safety Act (HMTUSA). Grant for Vulnerabilities study; (iv) update on sites that have been cleaned up by the E.P.A.; and (v) old business/new business, followed by a 15 minute discussion.

Contact: John F. Trivellin, Hazardous Materials

Coordinator, P.O. Box 470, Hanover County, VA 23069, telephone (804) 798-8554 or 730-6195.

VIRGINIA FIRE SERVICES BOARD

June 17, 1993 - 7:30 p.m. - Public Hearing
Best Western Radford Inn, 1501 Tyler Avenue, Radford, Virginia.

A public hearing to discuss fire training and policies. The hearing is open to the public for their input and comments.

June 18, 1993 - 9 a.m. - Open Meeting
Best Western Radford Inn, 1501 Tyler Avenue, Radford, Virginia.

A business meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire/EMS Education and Training

June 17, 1993 - 10 a.m. - Open Meeting
Best Western Radford Inn, 1501 Tyler Avenue, Radford, Virginia.

A meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control

June 17, 1993 - 9 a.m. - Open Meeting
Best Western Radford Inn, 1501 Tyler Avenue, Radford, Virginia.

A meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

June 17, 1993 - 9 a.m. - Open Meeting
Best Western Radford Inn, 1501 Tyler Avenue, Radford, Virginia.

A meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† June 24, 1993 - 11 a.m. - Open Meeting
Holiday Inn Coliseum, Mercury Boulevard, Hampton, Virginia. ☒

June 29, 1993 - 2:30 p.m. - Open Meeting
Roanoke Civic Center, 710 Williamson Road, N.E., Roanoke, Virginia.

A board meeting.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9111.

* * * * *

July 2, 1993 - Written comments may be submitted through 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: **VR 320-01-04. Regulations of the Resident Trainee Program for Funeral Service.** The proposed amendments add a definition of direct supervision, reformat the fee section, place a maximum time limit on trainee programs, and establish reporting and supervision requirements for the registered trainee.

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907.

BOARD OF GAME AND INLAND FISHERIES

June 17, 1993 - 9 p.m. - Open Meeting
Holiday Inn I-64 West End, 6531 West Broad Street, Richmond, Virginia.

The board will convene its meeting at 9 a.m. and immediately recess for their committee meetings, beginning with the Wildlife and Boat Committee, followed by the Planning Committee, Finance Committee, Liaison Committee and Law and Education Committee meetings.

In the Wildlife and Boat Committee, proposed advertised changes to the 1993-94 and 1994-95 hunting season, bag limits, etc. and aids to boating navigation will be reviewed and discussed.

Calendar of Events

During the Planning Committee meeting, members will discuss the board's funding initiative, and further consider implementation of recommendations made by the HJR-191 Legislative study committee that reported on the management and organizational structure of the department.

During the Finance Committee meeting, members will review the department's financial status report, proposed regulations concerning appointment and dismissal of license agents, and any other necessary matters appropriate to this committee's authority.

At the notice of this meeting, agenda items have not been posted for the Liaison and Law and Education Committees. If necessary, these committees will meet and discuss matters appropriate to their authority.

June 18, 1993 - 9 a.m. - Open Meeting
Holiday Inn I-64 West End, 6531 West Broad Street, Richmond, Virginia.

The board will reconvene its meeting with an executive session at 8 a.m. They will recess or adjourn the executive session at 9 a.m. and convene the public meeting. During the public meeting, the board will hear and consider changes to the 1993-94 and 1994-95 hunting seasons and related regulations, aids to boating navigation regulations and regulations on the appointment and removal of license agents. These changes may alter the proposed regulations significantly in response to public comment or staff recommendations. In addition, public comment will be heard, and if adopted, these changes will become effective as final regulations. Other general and administrative matters, as necessary, will be considered, with appropriate actions taken by the board.

Contact: Belle Harding, Secretary, 4010 W. Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.



DEPARTMENT OF HEALTH (STATE BOARD OF)

June 21, 1993 - 10 a.m. - Open Meeting
The Jefferson Hotel, Franklin and Adams Streets, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A worksession (informal dinner at the Jefferson 7 p.m. - 9 p.m.).

June 22, 1993 - 9 a.m. - Open Meeting
The Jefferson Hotel, Franklin and Adams Streets, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Business meeting.

Contact: Susan R. Rowland, MPA, Assistant to the Commissioner, 1500 E. Main St., Suite 214, Richmond, VA 23219.

BOARD OF HEALTH PROFESSIONS

June 23, 1993 - 2 p.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Ad hoc committee of the board to review the regulation of Behavioral Sciences.

June 24, 1993 - 9 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Ad hoc committee to plan for Certification of Providers of Mental Health and Counseling Services to Sexual Assault Offenders (pursuant to SJR 339, 1993).

June 24, 1993 - 1 p.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Ad hoc committee to study the Regulatory Management of Chemically Dependent Practitioners.

† **July 8, 1993 - 9 a.m. - Open Meeting**
Department of Health Professions, 6606 West Broad Street, 4th Floor, Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to consider drafts of proposed regulations pursuant to implementation of the Practitioner Self-Referral Act of 1993.

Contact: Richard D. Morrison, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

June 22, 1993 - 9:30 a.m. - Open Meeting
Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☒

A monthly meeting.

Contact: Kim Bolden, Public Relations Coordinator, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

DEPARTMENT OF HISTORIC RESOURCES

Board of Historic Resources

June 23, 1993 - 10 a.m. - Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to reconsider the listing of the Brandy Station Battlefield Historic District in Culpeper and Fauquier Counties and the Bristoe Station Battlefield Historic District in Prince William County on the Virginia Landmarks Register.

Contact: Margaret Peters, Information Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

State Review Board and the Board of Historic Resources

June 16, 1993 - 10 a.m. - Open Meeting
Library at Blandy Farm, State Arboretum, Route 50, Boyce, Virginia. ☒

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places.

Downtown Danville Historic District
Meadea, Clarke County
Lucky Hit, Clarke County
Shenandoah County Farm, Shenandoah County
Carlin Hall, Arlington County
Dickinson-Milbourn House, Jonesville, Lee County
Bowling Eldridge House, Halifax County
Frederick County Poor Farm, Frederick County
Killahevlin, Front Royal, Warren County
Level Loop, Rockbridge County
Varney's Falls Dam, Botetourt County

Contact: Margaret Peters, Information Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

July 6, 1993 - 9 a.m. - Open Meeting
August 3, 1993 - 9 a.m. - Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided upon request)

A Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title

III.

Contact: Robert Brown, Emergency Service Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

June 15, 1993 - 11 a.m. - Open Meeting
601 South Belvidere Street, Richmond, Virginia. ☒

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

June 14, 1993 - 1 p.m. - Open Meeting
General Assembly Building, 910 Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia.

A regular meeting to consider such matters as may be presented. Persons desiring to participate in the commission's meeting and requiring special accommodations or interpreter services should contact the commission's offices by June 7, 1993.

Contact: Robert H. Kirby, Secretary, 8th Street Office Building, Room 702, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

June 21, 1993 - 10 a.m. - Open Meeting
General Assembly Building, 910 Capitol Street, House Room C, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The tentative agenda items for consideration by the board include:

Calendar of Events

1. Permit-Required Confined Spaces for General Industry, Final Rule (1910.146) VR 425-02-92.
2. Amendments to Boiler and Pressure Vessel Rules and Regulations VR 425-01-75.
3. Amendment to Occupational Exposure to Cadmium, Final Rule (1910.1027, 1915.1027, 1928.1027) VR 425-02-90; (1926.63) VR 425-02-91.
4. Lead Exposure in Construction, Interim Final Rule (1926.62) VR 425-02-93.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Virginia Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2384.

LONGWOOD COLLEGE

Academic Affairs and Student Affairs Committee

June 14, 1993 - 4:30 p.m. - Open Meeting
Longwood College, East Ruffner Building, Farmville, Virginia. ☒

A meeting to conduct routine business.

Contact: William F. Dorrill, President, President's Office, Longwood College, 201 High Street, Farmville, VA 23909, telephone (804) 395-2001.

Board of Visitors

† July 26, 1993 - 9:30 a.m. - Open Meeting
Longwood College, East Ruffner Building, Farmville, Virginia. ☒

A meeting to conduct routine business.

Contact: William F. Dorrill, President, President's Office, Longwood College, 201 High Street, Farmville, VA 23909-1899, telephone (804) 395-2001.

Executive Committee

† June 17, 1993 - 5 p.m. - Open Meeting
Longwood College, East Ruffner Building, Farmville, Virginia. ☒

A meeting to conduct routine business.

Contact: William F. Dorrill, President, President's Office, Longwood College, 201 High Street, Farmville, VA 23909-1899, telephone (804) 395-2001.

VIRGINIA MANUFACTURED HOUSING BOARD

† June 23, 1993 - 10 a.m. - Open Meeting
Department of Housing and Community Development, 501

North 2nd Street, 2nd Floor Conference Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A monthly regular meeting to review, discuss and receive suggestions for draft of the Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Code Enforcement Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7160 or (804) 371-7089/TDD ☒

MARINE RESOURCES COMMISSION

† June 22, 1993 - 9:30 a.m. - Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for the deaf provided upon request)

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 noon. Items to be heard are as follows: 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: Sandra S. Schmidt, Secretary to the Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD

MATERNAL AND CHILD HEALTH COUNCIL

† June 16, 1993 - 1 p.m. - Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Conference Room 1, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The meeting will focus on improving the health of the Commonwealth's mothers and children by promoting and improving programs and service delivery systems related to maternal and child health.

Contact: Nancy C. Ford, MCH Nurse Consultant, Department of Health, Division of Maternal and Child

Health, 1500 E. Main St., Suite 137, Richmond, VA
23218-2448, telephone (804) 786-7367.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

June 18, 1993 - Written comments may be submitted through 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, 460-02-3.1300, VR 460-03-3.1301, VR 460-04-3.1300, VR 460-04-8.10. **Criteria for Nursing Home Preadmission Screening and Continued Stay; Technical Amendments.** The purpose of this proposal is to provide permanent regulations which supersede existing emergency regulations, and clarify the requirements and the process for ensuring that appropriate criteria for placing recipients in nursing facilities are met.

DMAS promulgated an emergency regulation for these criteria effective September 1, 1992. This regulatory package represents the agency's suggested proposed regulations to begin the permanent rule making process. These criteria are used by local screening teams to approve or deny Title XIX (Medicaid) payment for nursing facility or community-based care services.

Nursing home preadmission screening was implemented in Virginia in 1977 to ensure that Medicaid-eligible individuals placed in nursing homes actually required nursing home care. In 1982, DMAS obtained approval for a Section 2176 Home and Community-Based Care waiver to allow individuals who have been determined to require nursing facility services an alternative to nursing home placement. This alternative to nursing home care has become the Home and Community-Based Care Services program and offers such services as personal care, respite care, and adult day health care.

In 1989, DMAS revised a portion of the regulations related to nursing home preadmission screening to incorporate the requirement to screen all individuals for conditions of mental illness or mental retardation.

Section 32.1-330 of the Code of Virginia designates that the definition for eligibility to community based services will be included in the State Plan for Medical Assistance. In the existing emergency regulations, nursing needs are defined only by example of the types of nursing services which indicate a need for nursing facility care. This proposed regulation adds a definition for medical and nursing needs and clarifies and expands the list of the types of services which are provided by licensed nursing or professional personnel. It also defines imminent risk of nursing

facility placement.

This proposed regulation, as does the existing emergency regulation, contains additional sections which summarize the requirements which must be met to find an individual eligible for nursing facility care and/or community based care. The list of specific care needs which do not qualify an individual for nursing facility care has been clarified, expanded, and moved to the summary section. The evaluation section clarifies specific criteria for determining when an individual is at imminent risk of nursing home placement and can be authorized for community-based care placement. It also requires the evaluator to document that a community-based care option has been explored and explained to the client and/or client's primary caregiver prior to authorizing nursing facility care.

In addition, this regulation package makes amendments to clarify and improve the consistency of the regulations as they relate to outpatient rehabilitation. DMAS is making certain nonsubstantive changes as follows:

Attachment 3.1 A & B, Supplement 1, Attachment 3.1 C: The authorization form for extended outpatient rehabilitation services no longer requires a physician's signature. Although the physician does not sign the form, there is no change in the requirement that attached medical justification must include physician orders or a plan of care signed by the physician. Services that are noncovered home health services are described. These services are identified for provider clarification and represent current policy. Also, technical corrections have been made to bring the plan into compliance with the 1992 Appropriation Act and previously modified policies (i.e., deleting references to the repealed Second Surgical Opinion program under § 2. Outpatient hospital services and § 5. Physicians services).

The program's policy of covering services provided by a licensed clinical social worker under the direct supervision of a physician is extended to include such services provided under the direct supervision of a licensed clinical psychologist or a licensed psychologist clinical. This change merely makes policy consistent across different provider types. The same policy of providing for social workers' supervision by licensed clinical psychologists or licensed psychologists clinical is provided for in VR 460-04-8.10, Long-Stay Acute Care Hospital Regulations, which are state-only regulations.

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

Written comments may be submitted through June 18, 1993, to Betty Cochran, Director, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Calendar of Events

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

* * * * *

July 16, 1993 – Written comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates—Inpatient Hospital Services: Hospital Reporting Requirements.** The purpose of the proposed amendments is to require providers to submit additional financial, statistical and structural information for submission of completed cost reports, and to enable DMAS to make its annual findings and assurances. The regulations will impose a penalty for the failure to submit cost reports and the supplemental information within the required time frames.

The current regulation requires that the provider submit the completed cost report forms, the provider's trial balance, and its financial statements including the balance sheet, income statement, statement of retained earnings, and a statement of changes in financial position together with footnotes to the financial statement. The regulation also requires the submission of a home office cost report, where applicable, and the submission of schedules reconciling the financial statements and trial balance to the costs claimed in the cost report. The existing regulation provides that cost reports will not be considered complete by DMAS until all of the required information is received. Also, there is no penalty provision for the late submission of cost reports.

The proposed regulation requires the submission of two classes of information: (i) information that must be received within 90 days after the close of the provider's fiscal year (this information must be received before the filing of the cost report will be deemed complete); and (ii) financial, statistical and structural information that must be received by DMAS within 120 days after the close of the provider's fiscal year.

Section VI(C) of the proposed regulation imposes a penalty for the failure to submit the required information in a timely manner. This provision is being added as the result of a recent audit recommendation from the Health Care Financing Administration (HCFA). Receipt of the information submitted pursuant to this regulatory change is necessary in order for DMAS to complete its analysis of hospital costs necessary for preparation of its structured, federally-mandated findings and assurances.

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

Written comments may be submitted until 5 p.m. on July 16, 1993, to N. Stanley Fields, Director, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

Drug Utilization Review Board

June 24, 1993 - 3 p.m. – Open Meeting
600 East Broad Street, Suite 1300, Richmond, Virginia.

A regular meeting. Routine business will be conducted.

Contact: Carol B. Pugh, Pharm.D., DUR Program Consultant, Quality Care Assurance Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820.

BOARD OF MEDICINE

† July 16, 1993 - 10 a.m. – Open Meeting
6606 West Broad Street, 5th Floor, Board Room 1
Richmond, Virginia. ☒

A meeting to review §§ 54.1-2936, 54.1-2937, and 54.1-2961 of the Code of Virginia and develop regulations to establish requirements to be eligible for a limited license or temporary license to practice or train in specific programs in Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

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

NOTE: CHANGE IN MEETING DATE
June 30, 1993 - 10 a.m. – Open Meeting
Chesterfield Community Services Board, Chesterfield, Virginia. ☒

A regular monthly meeting. Agenda to be published on June 23. Agenda may be obtained by calling Jane Helfrich.

Tuesday: Informal session 8 p.m.

Wednesday: Committee meetings 9 a.m.
Regular session 10 a.m.

See agenda for location.

† **July 28, 1993 - 10 a.m. - Open Meeting**
Roslyn Conference Center, 8727 River Road, Richmond,
Virginia. ☒

A regular monthly meeting. Agenda to be published on
July 21. Agenda may be obtained by calling Jane
Helfrich.

Tuesday: Informal session 8 p.m.

Wednesday: Committee meetings 9 a.m.
Regular session 10 a.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, State
Mental Health, Mental Retardation and Substance Abuse
Services Board, P.O. Box 1797, Richmond, VA 23214,
telephone (804) 786-3921.

STATE MILK COMMISSION

† **June 17, 1993 - 10:30 a.m. - Open Meeting**
200-202 North 9th Street, Suite 1015, Richmond, Virginia. ☒
(Interpreter for the deaf provided upon request)

A regularly scheduled meeting to consider such
matters as routine statistical information, approving
several distributors for Virginia licenses, and any
further information that may need the commission's
attention.

Contact: Rodney L. Phillips, Administrator, 200-202 N. 9th
St., Suite 1015, Richmond, VA 23219-3402, telephone (804)
786-2013 or (804) 786-2013/TDD ☎

DEPARTMENT OF MOTOR VEHICLES

June 14, 1993 - 10 a.m. - Open Meeting
Northern Virginia Community College, Annandale Campus,
8333 Little River Turnpike, Annandale, Virginia. ☒

June 15, 1993 - 10 a.m. - Open Meeting
Virginia Beach Central Library, 4100 Virginia Beach
Boulevard, Virginia Beach, Virginia. ☒

DMV Fuels Tax Representatives will conduct an
informational meeting to assist affected individuals,
partnerships and corporations in their understanding of
the new legislative changes resulting from the 1993
session of the General Assembly. Public comments will
be received at this meeting.

Contact: Julian W. Fitzgerald, Sr., Fuels Tax Division
Manager, Department of Motor Vehicles, P.O. Box 27412,
Richmond, VA 23269-0001, telephone (804) 367-8116.

BOARD OF NURSING

† **June 17, 1993 - 10 a.m. - Open Meeting**
The Airport Sheraton Inn, 2727 Ferndale Drive, Roanoke,
Virginia. ☒ (Interpreter for the deaf provided upon
request)

† **June 24, 1993 - 9 a.m. - Open Meeting**
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf
provided upon request)

A meeting to conduct formal hearings with licensees.
Public comment will not be received.

† **June 25, 1993 - 10 a.m. - Open Meeting**
The Pavilion, 1000 19th Street, Mezzanine Conference
Room, Virginia Beach, Virginia. ☒ (Interpreter for the
deaf provided upon request)

A meeting to conduct formal hearings with certificate
holders. Public comment will not be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, 6606
W. Broad St., 4th Floor, Richmond, VA 23230-1717,
telephone (804) 662-9909 or (804) 662-7197/TDD ☎

Special Conference Committee

† **June 17, 1993 - 8:30 a.m. - Open Meeting**
† **June 18, 1993 - 8:30 a.m. - Open Meeting**
† **June 21, 1993 - 8:30 a.m. - Open Meeting**
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 3, Richmond, Virginia.

A meeting to conduct informal conferences with
licensees to determine what, if any, action should be
recommended to the Board of Nursing.

Contact: M. Teresa Mullin, R.N., Assistant Executive
Director, 6606 W. Broad St., 4th Floor, Richmond, VA
23030-1717, telephone (804) 662-9909 or (804)
662-7197/TDD ☎

BOARD OF PHARMACY

July 2, 1993 - Written comments may be submitted
through 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 530-01-1.**
Regulations of the Virginia Board of Pharmacy. The
purpose of the proposed amendments is to respond to
comments made during the biennial regulatory review;
to clarify and simplify regulations; and to respond to
current needs and technology in the practice.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code
of Virginia.

Calendar of Events

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

Contact: Steve Waldron, Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962.

* * * * *

July 2, 1993 – Written comments may be submitted through 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 purpose of the proposed amendments is to respond to comments made during the biennial regulatory review, to clarify and simplify regulations, and to respond to current needs and technology in the practice.

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

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

BOARD OF PROFESSIONAL COUNSELORS

June 18, 1993 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

A meeting to conduct general board business to include committee reports and respond to board correspondence. No public comment. Regulatory review will also be conducted.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9912.

June 25, 1993 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to conduct informal hearings. Public comment will not be heard.

Contact: Evelyn B. Brown, Executive Director, or Bernice Parker, Assistant, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-7328.

PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ADVISORY COUNCIL

† **June 17, 1993 - 9 a.m.** – Open Meeting
Shoney's Inn, 7007 West Broad Street, Richmond, Virginia. ☒

A regularly scheduled bi-monthly council meeting.

BOARD OF PSYCHOLOGY

July 20, 1993 - 11 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to conduct general board business and consider amending regulations related to examination, application and renewal fees.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9912.

RAPPAHANNOCK-RAPIDAN DIVISION OF COURT SERVICES EXECUTIVE BOARD

† **June 21, 1993 - 5:30 p.m.** – Open Meeting
300 Sunset Lane Ext., Suite 3110, Culpeper, Virginia. ☒

A quarterly business meeting of the District Nine Virginia Alcohol Safety Action Program. Items for review include budget, program activities and personnel.

Contact: R. Dean Irvine, Director, 300 Sunset Lane Ext., Suite 3110, Culpeper, VA 22701, telephone (703) 825-4550.

REAL ESTATE APPRAISER BOARD

June 16, 1993 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A Complaints Committee meeting.

June 29, 1993 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

Contact: Karen O'Neal, Assistant Director, Real Estate Appraiser Board, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

BOARD OF REHABILITATIVE SERVICES

June 24, 1993 - 10 a.m. – Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia.

A regular monthly business meeting.

Contact: Susan L. Urofsky, Commissioner, Board of Rehabilitative Services, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0318 or toll-free 1-800-552-5019/TDD ☎

DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES

June 21, 1993 - 6 p.m. - Public Hearing
Southwestern Virginia Mental Health Institute, 502 East Main Street, Marion, Virginia. ☒ (Interpreter for the deaf provided upon request)

June 22, 1993 - 2:30 p.m. - Public Hearing
Blue Ridge Independent Living Center, 1502 Williamson Road, N.E., Roanoke, Virginia. ☒ (Interpreter for the deaf provided upon request)

June 23, 1993 - 1 p.m. - Public Hearing
Mary Switzer Building, Woodrow Wilson Rehabilitation Center, Anderson Room, Fishersville, Virginia. ☒ (Interpreter for the deaf provided upon request)

An opportunity for public comment on (i) an overview of DRVD functions; (ii) a DRVD prioritization plan; and (iii) a statement of DRVD goals and objectives/activities which are currently being employed.

Contact: Steve K. Waldron, Policy Analyst, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

July 17, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled: **VR 615-25-01. Minimum Standards for Licensed Family Day Care Homes.** The existing regulation, Minimum Standards for Licensed Family Day Care Homes, is proposed for repeal while concurrently promulgating Minimum Standards for Licensed Family Day Homes.

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

Written comments may be submitted until July 17, 1993, to Alfreda Redd, Department of Social Services, Division of Licensing Programs, 730 East Broad Street, 7th Floor, Richmond, Virginia 23219.

Contact: Peggy Friedenber, Legislative Analyst, Department of Social Services, Office of Governmental Affairs, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1820.

* * * * *

July 17, 1993 - 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 Board of Social Services intends to adopt regulations entitled: **VR 615-25-01:1. Minimum Standards for Licensed Family Day Homes.** The proposed regulation shows major changes in the licensing standards caused by amendments to the Code of Virginia related to a family day home and are necessary to update licensing requirements.

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

Written comments may be submitted until July 17, 1993, to Alfreda Redd, Department of Social Services, Division of Licensing Programs, 730 East Broad Street, 7th Floor, Richmond, Virginia 23219.

Contact: Peggy Friedenber, Legislative Analyst, Department of Social Services, Office of Governmental Affairs, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1820.

TREASURY BOARD

† July 15, 1993 - 9 a.m. - Public Hearing
Department of the Treasury, 101 North 14th Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Treasury Board intends to amend regulations entitled **VR 640-02. Virginia Security for Public Deposits Act Regulations.** The purpose of the proposed amendments is to provide adequate protection for public funds on deposit in financial institutions by strengthening the ability of the Treasury Board to monitor collateral by identifying criteria for the selection of third-party escrow agents by financial institutions.

STATEMENT

Basis and authority: Section 2.1-364 of the Code of Virginia grants to the Treasury Board the authority to make and enforce regulations under Chapter 23 of Title 2.1 of the Code of Virginia, the Virginia Security for Public Deposits Act (the Act). The powers granted include regulations which (i) are necessary and proper to ensure performance of the functions under this chapter; (ii) fix terms and conditions under which public deposits may be received and held; (iii) require additional collateral as the Treasury Board may determine prudent under the circumstances; (iv) determine what securities shall be acceptable and fix the percentage of face value or market value of such securities that can be used to secure public deposits; (v) require qualified public depositories to furnish information

Calendar of Events

concerning public deposits; and (vi) determine when a default or insolvency has occurred and to take appropriate action.

Purpose: These regulations amend and supersede the regulations adopted October 31, 1991. The proposed amended regulations are necessary to provide adequate protection for public funds on deposit in financial institutions.

Substance: The amendment to § 1 clarifies the duties and responsibilities of the State Treasurer and financial institutions under the Act. The amendment to § 5 requires the computation of average daily balances to include both deposits and collateral. The amendment to § 8 requires a depository's Board of Directors to approve the "Public Deposit Security Agreement" executed among itself, the Treasury Board, and its eligible escrow agent, with such approval being reflected in the minutes of the Board of Directors. The amendment to § 9 requires escrow agents, at the time of a collateral substitution, to calculate adjustments to the market value of securities identified as difficult-to-value or subject to rapid decline in value, as determined by the State Treasurer. The amendment to § 10 defines current public deposits. The amendment to § 11 requires qualified public depositories to report the average daily market value of collateral in the monthly written report to the State Treasurer and to have an independent certified public accountant certify annually that public deposits reported to the State Treasurer under the Act are accurately reported. The new § 13 reinforces the authority of the Treasury Board to enact policy guidelines should qualified public depositories fail to comply with the provisions of the Act or regulations. The new § 14 establishes criteria for the selection of escrow agents by public depositories and outlines the responsibilities of the State Treasurer and public depositories to ensure adherence to these criteria. Other changes to the regulations are either clarifying or cosmetic in nature or necessary to conform with statutory changes.

Issues: The Treasury Board aims to strengthen existing safeguards and institute new safeguards to ensure that, in the event of a financial crisis, the failure of financial institutions would not significantly impair the ability of governmental bodies to protect their assets and perform their duties.

Impact: The most significant change to the regulations is the establishment of criteria for the selection of escrow agents by public depositories. Financial institutions currently select their own escrow agent in accordance with regulation requirements. Under the proposed regulations, escrow agents would be deemed eligible only after meeting the criteria defined by the State Treasurer. This amendment will require public depositories to select new escrow agents or to require existing escrow agents to provide additional services. There may be a cost to the depositories to implement this change.

Additional financial reporting and auditing requirements

will be placed on public depositories and their escrow agents. Current regulations require public depositories to report every month to the State Treasurer the amount of public deposits, the amount of average public deposits, and the amount of collateral. However, public depositories are not required to report monthly average collateral balances. The proposed regulation amendments would require the public depository to report the average daily market value of collateral on the monthly report to the State Treasurer. Escrow agents will be required to calculate adjustments to market value of securities being substituted as collateral. These reporting amendments will provide the State Treasurer an additional analytical tool for monitoring pledged collateral and public deposits. The overall impact of this amendment will depend on each individual institution's financial reporting capabilities.

The proposed regulation amendments will require the public depository to have an independent certified public accountant certify annually that public deposits reported to the State Treasurer under the Act were accurate. The auditing amendment will provide assurances to the State Treasurer of the accuracy of reported information.

Other amendments either clarify duties and responsibilities, reinforce existing authority or provide additional safeguards for public deposits by strengthening requirements necessary to ensure against the impairment of the Treasury Board's perfected interest in pledged collateral. The financial impact of these amendments would either be minimal or difficult to determine.

Statutory Authority: § 2.1-364 of the Code of Virginia.

Written comments may be submitted through August 13, 1993.

Contact: Robert S. Young, Director of Financial Policy, Department of the Treasury, P.O. Box 1879, Richmond, VA 23215-1879, telephone (804) 225-3131.

GOVERNOR'S COMMISSION ON VIOLENT CRIME

June 22, 1993 - 9:30 a.m. - Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room B, Richmond, Virginia. ☒

A full commission meeting.

Contact: Kris Ragan, Special Assistant, 701 E. Franklin St., 9th Floor, Richmond, VA 23219, telephone (804) 225-3899.

DEPARTMENT FOR THE VISUALLY HANDICAPPED (BOARD FOR)

July 28, 1993 - 2 p.m. - Open Meeting
397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting of the board to receive reports from the department staff and other information that may be presented to the board.

Contact: Joseph A. Bowman, Assistant Commissioner, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

Advisory Committee on Services

† **July 31, 1993 - 11 a.m. - Open Meeting**
397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee meets quarterly to advise the Virginia Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary Sr., 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

VIRGINIA VOLUNTARY FORMULARY BOARD

July 7, 1993 - 10 a.m. - Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

A public hearing 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 17, 1993, 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 July 7, 1993, will be made a part of the hearing record.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

June 18, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **VR 672-10-1. Hazardous Waste Management Regulations.** Amendment 13 to the Hazardous Waste Management Regulations incorporates changes

applicable to wood preservers.

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

Contact: William F. Gilley, Regulation Consultant, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966.

June 17, 1993 - 10 a.m. - Open Meeting
Department of Environmental Quality, 4900 Cox Road, Board Room, Glen Allen, Virginia. ☒

The Waste Division of the Department of Environmental Quality will receive public comments on its Notice of Intended Regulatory Action proposing to amend the Financial Assurance Regulations of Solid Waste Facilities (VR 672-20-1). The purpose is to amend existing regulations to incorporate requirements contained in EPA Guidelines for Municipal Solid Waste Facilities and EPA Financial Assurance Guidelines for local governments. Public comments will be received on the proposed amendment along with recommendations. Public comments will also be received on the costs and benefits of the regulations, amendments, and any proposed alternatives to be recommended by the public.

Contact: William F. Gilley, Regulatory Services Manager, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966.

* * * * *

July 13, 1993 - 7 p.m. - Public Hearing
Osborne High School, 9005 Tudor Lane, Lecture Room, Manassas, Virginia.

July 14, 1993 - 7 p.m. - Public Hearing
College of William and Mary, Landrum Drive, Millington Auditorium, Williamsburg, Virginia.

July 15, 1993 - 7 p.m. - Public Hearing
Virginia Western Community College, 3095 Colonial Avenue, S.W., Whitman Auditorium, Roanoke, Virginia.

July 30, 1993 - Written comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **672-40-01. Regulated Medical Waste Management Regulations.** The proposed amendments add flexibility in optional treatment methods and make several technical adjustments to the current regulations.

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

Contact: Robert G. Wickline, Director of Research, Department of Environmental Quality, 101 N. 14th St., 11th

Calendar of Events

Floor, Richmond, VA 23219, telephone (804) 225-2667.

STATE WATER CONTROL BOARD

June 17, 1993 - 7 p.m. - Open Meeting
Norfolk City Council Chamber, 810 Union Street, City Hall,
Norfolk, Virginia.

June 24, 1993 - 7 p.m. - Open Meeting
Roanoke County Administrative Center, 3738 Brambleton
Avenue, S.W. Community Room, Roanoke, Virginia.

A meeting to receive views and comments and to answer questions of the public regarding the State Water Control Board's intent to promulgate a general permit for animal feeding operations (VR 680-14-22, Virginia Pollution Abatement General Permit for Animal Feeding Operations).

Contact: Cathy Boatwright, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

* * * * *

June 15, 1993 - 2 p.m. - Public Hearing
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.

June 21, 1993 - 3 p.m. - Public Hearing
Norfolk City Council Chambers, 1006 City Hall Building, 810 Union Street, Norfolk, Virginia.

June 22, 1993 - 3 p.m. - Public Hearing
University of Virginia Southwest Center, Highway 19 North, Classroom 1 and 2, Abingdon, Virginia.

June 23, 1993 - 1:30 p.m. - Public Hearing
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia.

June 23, 1993 - 7:30 p.m. - Public Hearing
Harrisonburg City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia.

June 30, 1993 - 2 p.m. - Public Hearing
McCourt Building, 4850 Davis Ford Road, One County Complex, Prince William County Board Room, Prince William, Virginia.

July 19, 1993 - Written comments may be submitted until 4 p.m. on this date.

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 repeal regulations entitled: **VR 680-14-01. Permit Regulation**. The purpose of the proposed action is to repeal the Permit Regulation while concurrently considering the adoption of a new VPDES Permit Regulation and VPA Permit Regulation.

An informal question and answer period has been scheduled before each hearing. At that time staff will answer questions from the public on the proposal. The question and answer period will begin 1/2 hour before the scheduled public hearing. Accessibility to persons with disabilities: The hearings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Tuesday, June 1, 1993. Request for comments: The board seeks comments on the proposal, the issues and the costs and benefits of the proposal. Applicable federal requirements: The repeal of this regulation is not subject to federal requirements. Any federal requirements associated with the permit programs regulated under this regulation will be met by the adoption of the VPDES Permit Regulation (VR 680-14-01:1). Other information: In addition, the agency has performed certain analyses on the proposal related to purpose, need, impacts and alternatives which are available to the public upon request.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on July 19, 1993, to Doneva Dalton, Hearing Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

* * * * *

June 15, 1993 - 2 p.m. - Public Hearing
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.

June 21, 1993 - 3 p.m. - Public Hearing
Norfolk City Council Chambers, 1006 City Hall Building, 810 Union Street, Norfolk, Virginia.

June 22, 1993 - 3 p.m. - Public Hearing
University of Virginia Southwest Center, Highway 19 North, Classroom 1 and 2, Abingdon, Virginia.

June 23, 1993 - 1:30 p.m. - Public Hearing
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia.

June 23, 1993 - 7:30 p.m. - Public Hearing
Harrisonburg City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia.

June 30, 1993 - 2 p.m. - Public Hearing

McCourt Building, 4850 Davis Ford Road, One County Complex, Prince William County Board Room, Prince William, Virginia.

July 19, 1993 - Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-01:1. VPDES Permit Program Regulation.** The purpose of the proposed regulation is to consider adoption of a new regulation to govern point source discharges of pollutants to surface water. These discharges are currently regulated under VR 680-14-01 which will be repealed.

An informal question and answer period has been scheduled before each hearing. At that time staff will answer questions from the public on the proposal. The question and answer period will begin 1/2 hour before the scheduled public hearing. Accessibility to persons with disabilities: The hearings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Tuesday, June 1, 1993. Request for comments: The board seeks comments on the proposal, the issues and the costs and benefits of the proposal. Applicable federal requirements: The proposed regulation contains language prohibiting discharges without a permit and requiring that anyone who does discharge without a permit must notify the SWCB immediately. This proposed regulation also would prohibit the permitting of any discharge when discharge to publicly owned treatment works is reasonably available, unless the owner of the treatment works refuses in writing to accept the wastewater. This is being proposed in order to reduce a proliferation of point source discharges in areas served by central sewers.

Under the section dealing with confidentiality of information, the SWCB has added a reference to the Virginia Toxics Substance Information Act (TSIA) which states that any information obtained through the filings under the TSIA will be subject to the confidentiality requirements of that Act. The alternative of allowing such information to become public information would potentially violate the provisions of the TSIA.

The proposed regulation contains requirements from state law that no application for a permit can be considered complete until the local governing body has certified that the activity applying for a permit is in compliance with all applicable zoning and planning ordinances. The application for a privately owned

treatment works must also have a certification that the plant is incorporated with and in compliance with all relevant regulations or orders of the State Corporation Commission.

Unusual or extraordinary discharges from permitted facilities are to be reported within 24 hours. This is in addition to the federal requirement for reporting noncompliance with permit conditions. It is possible that a spill or another event could occur which would adversely affect state waters, but would not technically be considered noncompliance with the permit. This provision makes the permittee responsible for reporting such incidents to the SWCB. If the requirement is not included, certain spills may go unreported and no permit violation would occur.

The SWCB has included language from the current permit regulation which deals with publicly owned treatment works. It specifically addresses action plans which must be submitted when the plant reaches 95% of its design capacity for three consecutive months. This requirement allows the SWCB and the permittee to work out a plan to deal with the amount of sewage being treated at the plant so that the plant does not get into a situation where it is handling more sewage than it can adequately treat.

Another provision requires that the owner hire an operator for the treatment plant who is licensed as required by the regulations of the Board for Wastewater Works and Waterworks Operators. This will help to ensure that the plant is operated properly by someone with the appropriate amount of experience and training.

The proposed regulation stipulates that when the SWCB decides to deny a permit application, the owner must be notified of the steps to take to obtain approval of the application. This language is from the State Water Control Law and helps to assure that the owner has due process of his request for a permit.

The requirement that the applicant pay the cost of the public notice of a draft permit is included as an addition to the federal language.

The SWCB's Procedural Rule No. 1 is given as the source of procedures for requesting public hearings and for decisions from public hearings. The federal language applies to permit actions only when there are no corresponding state procedures.

The causes for termination of a permit are those listed in the State Water Control Law, instead of the causes listed in the federal regulations. Where the two lists of causes do not overlap substantially, the federal cause is also listed.

The proposed regulation includes language from the existing permit regulation dealing with state

Calendar of Events

enforcement capabilities, delegation of authority to the Department of Mines, Minerals and Energy for permits issued to industrial activity associated with coal mines, the actions and duties of SWCB members and the director, and the processing of applications after the effective date of the regulation. These sections are from the existing Permit Regulation, do not have counterparts in federal NPDES regulations and are considered necessary for the VPDES permit regulation. Deleting them may cause some problems with the SWCB's ability to implement the permit program in Virginia. Other information: In addition, the agency has performed certain analyses on the proposal related to purpose, need, impacts and alternatives which are available to the public upon request.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on July 19, 1993, to Doneva Dalton, Hearing Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

* * * * *

June 15, 1993 - 2 p.m. - Public Hearing
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.

June 21, 1993 - 3 p.m. - Public Hearing
Norfolk City Council Chambers, 1006 City Hall Building, 810 Union Street, Norfolk, Virginia.

June 22, 1993 - 3 p.m. - Public Hearing
University of Virginia Southwest Center, Highway 19 North, Classroom 1 and 2, Abingdon, Virginia.

June 23, 1993 - 1:30 p.m. - Public Hearing
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia.

June 23, 1993 - 7:30 p.m. - Public Hearing
Harrisonburg City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia.

June 30, 1993 - 2 p.m. - Public Hearing
McCourt Building, 4850 Davis Ford Road, One County Complex, Prince William County Board Room, Prince William, Virginia.

July 19, 1993 - Written comments may be submitted until 4 p.m. on this date.

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 repeal regulations entitled: VR 680-14-03. **Toxics Management Regulation.** The purpose of the proposed action is to consider repealing the Toxics Management Regulation in order to eliminate any confusion which may result from the concurrent adoption of the new VPDES Permit Regulation.

An informal question and answer period has been scheduled before each hearing. At that time staff will answer questions from the public on the proposal. The question and answer period will begin 1/2 hour before the scheduled public hearing. Accessibility to persons with disabilities: The hearings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Tuesday, June 1, 1993. Request for comments: The board seeks comments on the proposal, the issues and the costs and benefits of the proposal. Applicable federal requirements: The repeal of this regulation is not subject to federal requirements. Other information: In addition, the agency has performed certain analyses on the proposal related to purpose, need, impacts and alternatives which are available to the public upon request.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on July 19, 1993, to Doneva Dalton, Hearing Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

* * * * *

June 21, 1993 - 11 a.m. - Public Hearing
James City County Board of Supervisors Room, 101C Mounts Bay Road, Building C, Williamsburg, Virginia.

June 23, 1993 - 10:30 a.m. - Public Hearing
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia.

June 30, 1993 - 10:30 a.m. - Public Hearing
One County Complex, 4850 Davis Ford Road, McCourt Building, Prince William County Board of Supervisors Room, Prince William, Virginia.

July 19, 1993 - Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-16. General Permit for Storm Water Discharges Associates with Heavy Manufacturing Facilities.** The purpose of the proposed regulation is to adopt a general permit for storm water discharges associated with heavy manufacturing facilities.

An informal question and answer period has been scheduled before each hearing. At that time staff will answer questions from the public on the proposal. The question and answer period will begin 1/2 hour before the scheduled public hearing. Accessibility to persons with disabilities: The hearings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Mrs. Dalton no later than Tuesday, June 1, 1993. Request for comments: The board seeks comments on the proposal, the issues and the costs and benefits of the proposal. Applicable federal requirements: The federal general permit for storm water discharges associated with industrial activity was used as a guide for developing this proposed regulation. The federal general permit requires the submittal of an application 2 days prior to the commencement of the industrial activity. This proposed regulation requires the Registration Statement to be submitted at least 30 days prior to the commencement of industrial activity. This was necessary to allow the SWCB staff time to review and approve the Registration Statement and issue the general permit to the registrant. The registrant is not authorized to discharge until a complete Registration Statement has been submitted and a general permit is received from the SWCB. The federal requirements do not require issuance of a storm water general permit to the applicant but authorize an applicant to discharge 2 days after the application has been submitted. The SWCB believes it is necessary to review all Registration Statements for acceptance and to issue the general permit in order to assure consistency and compliance with the storm water regulations. The proposed regulation requires that a site map be developed that identifies the location of certain activities including fueling operations and treatment, storage and disposal of wastes. The federal general permit requires the identification of these activities where they are exposed to precipitation. The SWCB believes the identification of the location of these areas is necessary to determine the extent of industrial activity occurring at the site regardless of their potential for exposure to precipitation. The SWCB believes the remaining provisions of the proposal to be consistent with and no more stringent than applicable federal requirements. Other information: In addition, the agency has performed certain analyses on the proposal related to purpose, need, impacts and

alternatives which are available to the public upon request.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on July 19, 1993, to Doneva Dalton, Hearing Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cathy Boatwright, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

* * * * *

June 21, 1993 - 11 a.m. – Public Hearing
James City County Board of Supervisors Room, 101C Mounts Bay Road, Building C, Williamsburg, Virginia.

June 23, 1993 - 10:30 a.m. – Public Hearing
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia.

June 30, 1993 - 10:30 a.m. – Public Hearing
One County Complex, 4850 Davis Ford Road, McCourt Building, Prince William County Board of Supervisors Room, Prince William, Virginia.

July 19, 1993 – Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-17. General Permit for Storm Water Discharges From Light Manufacturing Facilities.** The purpose of the proposed regulation is to adopt a general permit for storm water discharges from light manufacturing facilities.

An informal question and answer period has been scheduled before each hearing. At that time staff will answer questions from the public on the proposal. The question and answer period will begin 1/2 hour before the scheduled public hearing. Accessibility to persons with disabilities: The hearings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Mrs. Dalton no later than Tuesday, June 1, 1993. Request for comments: The board seeks comments on the proposal, the issues and the costs and benefits of the proposal. Applicable federal requirements: The federal general permit for storm water discharges associated with industrial activity was used as a guide for developing this proposed regulation. The federal general permit requires the submittal of an application

Calendar of Events

2 days prior to the commencement of the industrial activity. This proposed regulation requires the Registration Statement to be submitted at least 30 days prior to the commencement of industrial activity. This was necessary to allow the SWCB staff time to review and approve the Registration Statement and issue the general permit to the registrant. The registrant is not authorized to discharge until a complete Registration Statement has been submitted and a general permit is received from the SWCB. The federal requirements do not require issuance of a storm water general permit to the applicant but authorize an applicant to discharge 2 days after the application has been submitted. The SWCB believes it is necessary to review all Registration Statements for acceptance and to issue the general permit in order to assure consistency and compliance with the storm water regulations. The SWCB believes the remaining provisions of the proposal to be consistent with and no more stringent than applicable federal requirements. Other information: In addition, the agency has performed certain analyses on the proposal related to purpose, need, impacts and alternatives which are available to the public upon request.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on July 19, 1993, to Doneva Dalton, Hearing Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cathy Boatwright, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

* * * * *

June 21, 1993 - 11 a.m. - Public Hearing
James City County Board of Supervisors Room, 101C Mounts Bay Road, Building C, Williamsburg, Virginia.

June 23, 1993 - 10:30 a.m. - Public Hearing
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia.

June 30, 1993 - 10:30 a.m. - Public Hearing
One County Complex, 4850 Davis Ford Road, McCourt Building, Prince William County Board of Supervisors Room, Prince William, Virginia.

July 19, 1993 - Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-18. General Permit for Storm Water Discharges From Transportation Facilities; Landfills, Land Application Sites and Open Dumps; Materials**

Recycling Facilities; and Steam Electric Power Generating Facilities. The purpose of the proposed regulation is to adopt a general permit for storm water discharges from certain covered activities.

An informal question and answer period has been scheduled before each hearing. At that time staff will answer questions from the public on the proposal. The question and answer period will begin 1/2 hour before the scheduled public hearing. Accessibility to persons with disabilities: The hearings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Mrs. Dalton no later than Tuesday, June 1, 1993. Request for comments: The board seeks comments on the proposal, the issues and the costs and benefits of the proposal. Applicable federal requirements: The federal general permit for storm water discharges associated with industrial activity was used as a guide for developing this proposed regulation. The federal general permit requires the submittal of an application 2 days prior to the commencement of the industrial activity. This proposed regulation requires the Registration Statement to be submitted at least 30 days prior to the commencement of industrial activity. This was necessary to allow the SWCB staff time to review and approve the Registration Statement and issue the general permit to the registrant. The registrant is not authorized to discharge until a complete Registration Statement has been submitted and a general permit is received from the SWCB. The federal requirements do not require issuance of a storm water general permit to the applicant but authorize an applicant to discharge 2 days after the application has been submitted. The SWCB believes it is necessary to review all Registration Statements for acceptance and to issue the general permit in order to assure consistency and compliance with the storm water regulations. The SWCB believes the remaining provisions of the proposal to be consistent with and no more stringent than applicable federal requirements. Other information: In addition, the agency has performed certain analyses on the proposal related to purpose, need, impacts and alternatives which are available to the public upon request.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on July 19, 1993, to Doneva Dalton, Hearing Reporter, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cathy Boatwright, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

* * * * *

June 21, 1993 - 11 a.m. -- Public Hearing
James City County Board of Supervisors Room, 101C
Mounts Bay Road, Building C, Williamsburg, Virginia.

June 23, 1993 - 10:30 a.m. -- Public Hearing
Roanoke County Administration Center, 3738 Brambleton
Avenue, S.W., Community Room, Roanoke, Virginia.

June 30, 1993 - 10:30 a.m. -- Public Hearing
One County Complex, 4850 Davis Ford Road, McCourt
Building, Prince William County Board of Supervisors
Room, Prince William, Virginia.

July 19, 1993 -- Written comments may be submitted until
4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the State Water Control
Board intends to adopt regulations entitled: **VR
680-14-19. General Permit for Storm Water
Discharges from Construction Sites.** The purpose of
the proposed regulation is to adopt a general permit
for storm water discharges from construction sites.

An informal question and answer period has been
scheduled before each hearing. At that time staff will
answer questions from the public on the proposal. The
question and answer period will begin 1/2 hour before
the scheduled public hearing. Accessibility to persons
with disabilities: The hearings are being held at public
facilities believed to be accessible to persons with
disabilities. Any person with questions on the
accessibility of the facilities should contact Mrs.
Dalton at the address below or by telephone at (804)
527-5162 or TDD (804) 527-4261. Persons needing
interpreter services for the deaf must notify Mrs.
Dalton no later than Tuesday, June 1, 1993. Request
for comments: The board seeks comments on the
proposal, the issues and the costs and benefits of the
proposal. Applicable federal requirements: The federal
general permit for storm water discharges from
construction sites was used as a guide for developing
this proposed regulation. The federal general permit
requires the submittal of an application 2 days prior
to the commencement of the construction. This
proposed regulation requires the Registration
Statement to be submitted at least 14 days prior to the
commencement of construction. This was necessary to
allow the SWCB staff time to review and approve the
Registration Statement and issue the general permit to
the registrant. The registrant is not authorized to
discharge until a complete Registration Statement has
been submitted and a general permit is received from
the SWCB. The federal requirements do not require
issuance of a storm water general permit to the
applicant but authorize an applicant to discharge 2
days after the application has been submitted. The
SWCB believes it is necessary to review all
Registration Statements for acceptance and to issue

the general permit in order to assure consistency and
compliance with the storm water regulations. The
SWCB believes the remaining provisions of the
proposal to be consistent with and no more stringent
than applicable federal requirements. Other
information: In addition, the agency has performed
certain analyses on the proposal related to purpose,
need, impacts and alternatives which are available to
the public upon request.

Statutory Authority: § 62.1-44.15(10) of the Code of
Virginia.

Written comments may be submitted until 4 p.m. on July
19, 1993, to Doneva Dalton, Hearing Reporter, Department
of Environmental Quality, P.O. Box 11143, Richmond,
Virginia 23230.

Contact: Cathy Boatwright, Department of Environmental
Quality, P.O. Box 11143, Richmond, VA 23230, telephone
(804) 527-5316.

* * * * *

June 15, 1993 - 10 a.m. -- Public Hearing
Department of Environmental Quality, Innsbrook Corporate
Center, 4900 Cox Road, Glen Allen, Virginia.

July 19, 1993 -- Written comments may be submitted until
4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the State Water Control
Board intends to adopt regulations entitled: **VR
680-14-20. General Virginia Pollutant Discharge
Elimination System (VPDES) Permit for Nonmetallic
Mineral Mining.** The purpose of the proposed
regulation is to adopt a general permit for industrial
discharges from nonmetallic mineral mining facilities.

An informal question and answer period has been
scheduled before each hearing. At that time staff will
answer questions from the public on the proposal. The
question and answer period will begin 1/2 hour before
the scheduled public hearing. Accessibility to persons
with disabilities: The hearings are being held at public
facilities believed to be accessible to persons with
disabilities. Any person with questions on the
accessibility of the facilities should contact Mrs.
Dalton at the address below or by telephone at (804)
527-5162 or TDD (804) 527-4261. Persons needing
interpreter services for the deaf must notify Ms.
Dalton no later than Tuesday, June 1, 1993. Request
for comments: The board seeks comments on the
proposal, the issues and the costs and benefits of the
proposal. Applicable federal requirements: The
proposed general permit for nonmetallic mineral
mining operations contains effluent limits not included
in applicable federal technology based limits. However,
the general permit effluent limits are no more
stringent than individual VPDES permits issued for

Calendar of Events

this category of discharge. Other information: In addition, the agency has performed certain analyses on the proposal related to purpose, need, impacts and alternatives which are available to the public upon request.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on July 19, 1993, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 11143 Richmond, VA 23230, telephone (804) 527-5059.

* * * * *

June 15, 1993 - 2 p.m. – Public Hearing
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.

June 21, 1993 - 3 p.m. – Public Hearing
Norfolk City Council Chambers, 1006 City Hall Building, 810 Union Street, Norfolk, Virginia.

June 22, 1993 - 3 p.m. – Public Hearing
University of Virginia Southwest Center, Highway 19 North, Classroom 1 and 2, Abingdon, Virginia.

June 23, 1993 - 1:30 p.m. – Public Hearing
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia.

June 23, 1993 - 7:30 p.m. – Public Hearing
Harrisonburg City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia.

June 30, 1993 - 2 p.m. – Public Hearing
McCourt Building, 4850 Davis Ford Road, One County Complex, Prince William County Board Room, Prince William, Virginia.

July 19, 1993 – Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-21. Virginia Pollution Abatement (VPA) Permit Program Regulation.** The purpose of the proposed action is to consider adopting a new regulation to govern sources of pollutants that are not point source discharges to surface waters. These sources are currently regulated through the Permit Regulation (VR 680-14-01).

An informal question and answer period has been scheduled before each hearing. At that time staff will answer questions from the public on the proposal. The

question and answer period will begin 1/2 hour before the scheduled public hearing. Accessibility to persons with disabilities: The hearings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Tuesday, June 1, 1993. Request for comments: The board seeks comments on the proposal, the issues and the costs and benefits of the proposal. Applicable federal requirements: There are no federal requirements applicable to the VPA permit program. Other information: In addition, the agency has performed certain analyses on the proposal related to purpose, need, impacts and alternatives which are available to the public upon request.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on July 19, 1993, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 11143 Richmond, VA 23230, telephone (804) 527-5059.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

June 15, 1993 - 8:30 a.m. – Open Meeting
June 16, 1993 - 8:30 a.m. – Open Meeting
† **June 17, 1993 - 8:30 a.m. – Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct regulatory review.

July 21, 1993 - 8:30 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct board business and other matters which may require board action.

Contact: Geralde W. Morgan, Board Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

VIRGINIA WORKER'S COMPENSATION COMMISSION

† **July 15, 1993 - 10 a.m. – Public Hearing**
1000 DMV Drive, Courtroom, Richmond, Virginia.

August 13, 1993 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Worker's Compensation Commission intends to promulgate regulations entitled: **VR 405-01-06. Procedures for Processing Worker's Compensation Claims.** The commission proposes to change its present rules concerning prehearing, hearing and review procedures in accordance with recommendations made by the 1993 General Assembly. The Virginia Worker's Compensation Commission pursuant to § 65.2-201 A of the Code of Virginia, proposes to change its present Rules of Practice and Procedure in accordance with recommendations made by the 1993 General Assembly. Present rules concerning prehearing, hearing and review procedures have been reviewed and proposed new rules are offered for comment by the public, members of the bar and all other interested parties. Copies of the proposed new rules may be obtained from the Office of the Clerk, Worker's Compensation Commission, 1000 DMV Drive, Richmond, Virginia 23220, without cost. A public hearing will be conducted in the commission courtroom beginning at 10 a.m. on July 15, 1993, at which time interested parties will be heard regarding proposed rule changes. Those who wish to have their comments made part of the record must file written comments with the Clerk of the Commission no less than five business days prior to the public hearing. Oral comments to the commission will be heard and shall be limited to eight minutes per person unless extended comments are approved by the commission before the hearing date.

Statutory Authority: § 65.2-201 A of the Code of Virginia.

Contact: Lawrence D. Tarr, Chief Deputy Commissioner, 1000 DMV Dr., Richmond, VA 23220, telephone (804) 367-8664.

LEGISLATIVE

COAL AND ENERGY COMMISSION

† June 28, 1993 - 10 a.m. - Open Meeting

General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

An open meeting.

Contact: Tom Gilman, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-5742, or Arlen Bolstad, Staff Attorney, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23208, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING THE NEEDS OF FOREIGN-BORN INDIVIDUALS IN THE COMMONWEALTH

June 28, 1993 - 1 p.m. - Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

The subcommittee will meet for the purpose of an organizational meeting. HJR 660.

Contact: Gayle Vergara, Research Associate, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

JOINT COMMISSION ON HEALTH CARE

† June 25, 1993 - 10 a.m. - Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room B, Richmond, Virginia.

An open meeting.

Contact: John McE. Garrett, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-5742, or Jane Kusiak, Executive Director Commission Staff, Old City Hall, 2nd Floor, Richmond, VA 23219, telephone (804) 786-5445.

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

June 14, 1993 - 9:30 a.m. - Open Meeting
General Assembly Building, 910 Capitol Square, House Appropriations Committee Room, 9th Floor, Richmond, Virginia.

Auditor of Public Accounts workplan briefing; VRS/RF&P subcommittee.

Contact: Phil Leone, General Assembly Building, 910 Capitol Square, Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

JOINT SUBCOMMITTEE TO STUDY THE VIRGINIA MINE SAFETY LAW OF 1966

† June 14, 1993 - 1:30 p.m. - Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

An organizational meeting for the purpose of studying the need for modifications to the Virginia Mine Safety Law of 1966.

Contact: Franklin D. Munyan, Staff Attorney, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

Calendar of Events

JOINT SUBCOMMITTEE TO STUDY WAYS TO IMPROVE THE REGISTRATION AND ELECTORAL PROCESS AND ENCOURAGE VOTER PARTICIPATION

† June 23, 1993 - 1 p.m. - Open Meeting
State Capitol, House Room 4, Richmond, Virginia.

An organizational meeting for studying improvements in the electoral process and ways to encourage voters.

Contact: Virginia A. Edwards, Staff Attorney, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING SOLID WASTE MANAGEMENT AND RECYCLING NEEDS

† June 22, 1993 - 10 a.m. - Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor Conference Room, Richmond, Virginia.

An initial meeting of the subcommittee for organizational purposes and to establish agenda for interim.

Contact: Shannon Varner, Staff Attorney, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

VIRGINIA CODE COMMISSION

June 16, 1993 - 10 a.m. - Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

The commission will conduct a preproposal conference on the Request for Proposal for the compilation and of state agency regulations, and publication of an official Virginia Administrative Code.

Contact: Joan W. Smith, Virginia Code Commission, 910 Capitol Square, Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

June 14
Intergovernmental Relations, Advisory Commission on Joint Legislative Audit and Review Commission
Local Emergency Planning Committee - Hanover County
Longwood College

- Academic Affairs and Student Affairs Committees
† Mine Safety Law of 1966, Joint Subcommittee to Study the Virginia
Motor Vehicles, Department of

June 15
† Branch Pilots, Board for
Housing Development Authority, Virginia
Local Emergency Planning Committee - Goochland County
Motor Vehicles, Department of
Waterworks and Wastewater Works Operators

June 16
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Land Surveyors
Contractors, Board for
† Corrections, Board of
Historic Resources, Department of
- State Review Board and Board of Historic Resources
† Maternal and Child Health Council
Real Estate Appraiser Board
Waterworks and Wastewater Works Operators

June 17
Disability Services Council
Fire Services Board, Virginia
- Fire/EMS Education and Training
- Fire Prevention and Control
- Legislative/Liaison Committee
Game and Inland Fisheries, Board of
† Longwood College
- Executive Committee
† Milk Commission, State
† Nursing, Board of
- Special Conference Committee
† Protection and Advocacy for Individuals with Mental Illness Advisory Council
Waste Management Board, Virginia
Water Control Board, State
† Waterworks and Wastewater Works Operators, Board for

June 18
Dentistry, Board of
Fire Services Board, Virginia
Game and Inland Fisheries, Board of
Interdepartmental Regulation on Children's Residential Facilities
- Coordinating Committee
† Nursing, Board of
- Special Conference Committee
Professional Counselors, Board of

June 19
† Conservation and Recreation, Department of
- Cave Board

June 21

Calendar of Events

Alcoholic Beverage Control Board
Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
Cosmetology, Board for
Health, State Board of
Labor and Industry, Department of
- Safety and Health Codes Board
† Nursing, Board of
- Special Conference Committee
† Rappahannock-Rapidan Division of Court Services
Executive Board

June 22

† Aging, Department for the
- Long-Term Care Ombudsman Program Advisory
Council
Agriculture and Consumer Services, Department of
- Marine Products Board
Contractors, Board for
Health Services Cost Review Council, Virginia
Health Professions, Board of
† Marine Resources Commission
† Solid Waste Management and Recycling Needs, Joint
Subcommittee Studying
Violent Crime, Governor's Commission on

June 23

Health Profession, Board of
Historic Resources, Board of
† Manufactured Housing Board, Virginia
† Registration and Electoral Process and Encourage
Voter Participation, Joint Subcommittee to Study Ways
to Improve the

June 24

† Agriculture and Consumer Services, Department of
- Virginia Peanut Board
Education, Board of
† Funeral Directors and Embalmers, Board of
Health Professions, Board of
Medical Assistance Services, Department of
- Drug Utilization Review Board
† Nursing, Board of
Rehabilitative Services, Board of
Water Control Board, State

June 25

Agriculture and Consumer Services, Department of
- Virginia Egg Board
Chesapeake Bay Local Assistance Board
† Contractors, Board for
† Health Care, Joint Commission on
† Nursing, Board of
Professional Counselors, Board of

June 28

† Coal and Energy Commission
Cosmetology, Board for
Foreign-Born Individuals in the Commonwealth, Joint
Subcommittee Studying the Needs of

June 29

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
Funeral Directors and Embalmers, Board of
Real Estate Appraiser Board

June 30

Agriculture and Consumer Services, Board of
Cancer Registry Advisory Committee, Virginia
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
Mental Health, Mental Retardation and Substance
Abuse Services, State Board

July 1

Chesapeake Bay Local Assistance Board
- Northern Area Review Committee

July 6

Agriculture and Consumer Services, Department of
- Winegrowers Advisory Board
Hopewell Industrial Safety Council

July 8

Alcoholic Beverage Control Board
† Health Professions, Board of

July 16

† Medicine, Board of

July 20

Psychology, Board of

July 21

Waterworks and Wastewater Works Operators, Board
for

July 22

† Corrections, Board of
- Liaison Committee

July 23

Alcoholic Beverage Control Board

July 26

† Longwood College
- Board of Visitors

July 28

† Mental Health, Mental Retardation and Substance
Abuse Services Board, State
Visually Handicapped, Board for the

July 31

† Visually Handicapped, Department for the
- Advisory Committee on Services

August 2

Alcoholic Beverage Control Board

August 3

Calendar of Events

Hopewell Industrial Safety Council

August 16

Alcoholic Beverage Control Board

PUBLIC HEARINGS

June 15

Water Control Board, State

June 17

Fire Services Board, Virginia

June 21

Rights of Virginians with Disabilities, Department for
Water Control Board, State

June 22

Rights of Virginians with Disabilities, Department for
Water Control Board, State

June 23

Rights of Virginians with Disabilities, Department for
Water Control Board, State

June 24

Education, State Board of

June 30

Agriculture and Consumer Services, Board of
Water Control Board, State

July 7

Virginia Voluntary Formulary Board

July 13

Air Pollution Control Board, State
Waste Management Board, Virginia

July 14

Air Pollution Control Board, State
Waste Management Board, Virginia

July 15

Air Pollution Control Board, State
† Treasury Board
Waste Management Board, Virginia
† Workers' Compensation Commission, Virginia

August 17

† Aging, Department for the