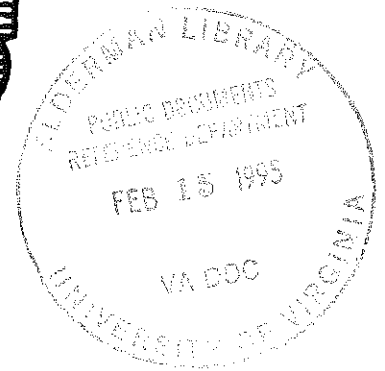
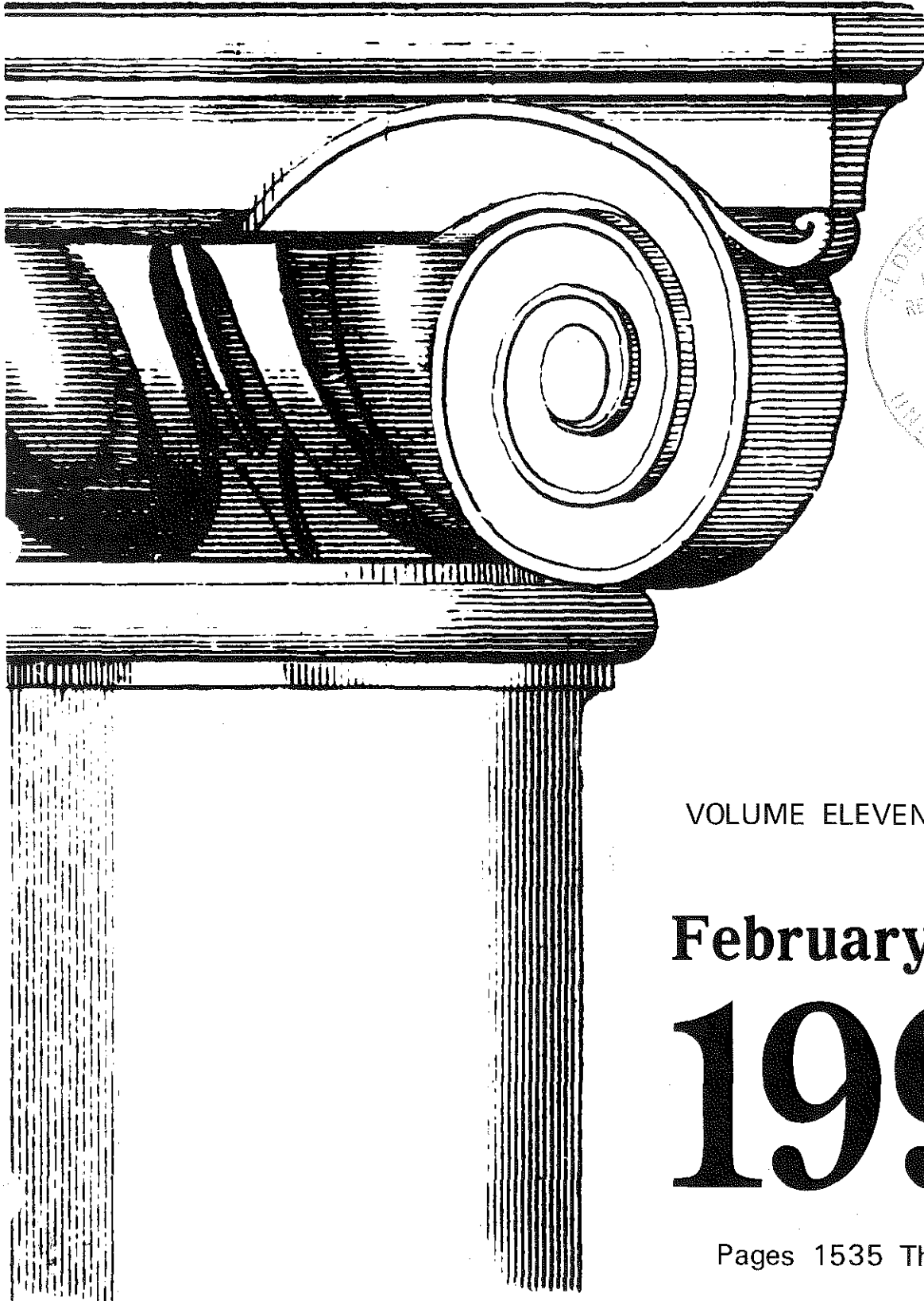


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THE VIRGINIA REGISTER

OF REGULATIONS

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February 6, 1995

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VIRGINIA REGISTER

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

The *Virginia Register* has several functions. The full text of all regulations, both as proposed and as finally adopted or changed by amendment, is 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 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 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-month duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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March	15, 1995	April	3, 1995
March	29, 1995	April	17, 1995
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June	21, 1995	July	10, 1995
July	5, 1995	July	24, 1995
July	19, 1995	August	7, 1995
August	2, 1995	August	21, 1995
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FINAL INDEX - Volume 11		October	1995

Volume 12

September	13, 1995	October	2, 1995
September	27, 1995	October	16, 1995
October	11, 1995	October	30, 1995
October	25, 1995	November	13, 1995
November	8, 1995	November	27, 1995
November	21, 1995 (Tuesday)	December	11, 1995
December	6, 1995	December	25, 1995
INDEX 1 - Volume 12		January	1996

December	19, 1995 (Tuesday)	January	8, 1996
January	3, 1996	January	22, 1996
January	17, 1996	February	5, 1996
January	31, 1996	February	19, 1996
February	14, 1996	March	4, 1996
February	28, 1996	March	18, 1996
INDEX 2 - Volume 12		April	1996

TABLE OF CONTENTS

NOTICES OF INTENDED REGULATORY ACTION

Notices of Intent. 1537

PROPOSED REGULATIONS

VIRGINIA STATE BAR

Bylaws of the Virginia State Bar and Council. (VR 167-01-301) 1539

Rules of Disciplinary Procedures for Virginia State Bar Staff and District Committees. (VR 167-01-401) . 1544

Disciplinary Board Rules of Procedure. (VR 167-01-501) 1550

Mandatory Continuing Legal Education Regulation. (VR 167-01-601) 1556

FINAL REGULATIONS

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Regulations Governing Literary Loan Applications in Virginia. (VR 270-01-0009) 1566

DEPARTMENT OF HEALTH (STATE BOARD OF)

Rules and Regulations Governing Emergency Medical Services Do Not Resuscitate Program. (VR 355-32-500) 1569

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

Hazardous Waste Operations and Emergency Response Standard, General Industry (1910.120). (VR 425-02-29) 1575

Hazardous Waste Operations and Emergency Response Standard, Construction Industry (1926.65). (VR 425-02-111) 1577

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

State Plan for Medical Assistance Relating to Expanded Coverage for Children Ages 6 to 19. 1579

Coverage and Conditions of Eligibility (Attachment 2.2-A). (VR 460-02.2100:1) 1579

Eligibility Conditions and Requirements (Attachment 2.6-A). (VR 460-02-2.6100:1) 1580

Income Eligibility Levels (Supplement 1 to Attachment 2.6-A). (VR 460-03-2.6101:1) 1580

More Liberal Income Disregards (Supplement 8a to Attachment 2.6-A). (VR 460-03-2.6108.1) 1584

More Liberal Methods of Treating Resources under § 1902(r)(2) of the Act (Supplement 8b to Attachment 2.6-A). (VR 460-03-2.6108.2) 1584

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Rules and Regulations for the Administration of Waysides and Rest Areas. (VR 385-01-4) 1586

General Rules and Regulations of the Commonwealth Transportation Board. (VR 385-01-10) 1587

Rules and Regulations for the Administration of Parking Lots and Environs. (VR 385-01-11) 1589

Rules and Regulations Controlling Outdoor Advertising and Directional and Other Signs and Notices. (VR 385-01-13) 1590

Delegation of Duties. (VR 385-01-30) 1600

Internal Audit Charter. (VR 385-01-36) 1600

STATE CORPORATION COMMISSION

FINAL REGULATION

Rules Governing the Safety of Intrastate Hazardous Liquid Pipeline Systems. 1602

ADMINISTRATIVE LETTER

Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers. (1995-3) 1603

GOVERNOR

EXECUTIVE ORDER

Executive Branch Legislative Coordination. (39-95) .. 1617

GOVERNOR'S COMMENTS

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Regulations Governing Literary Loan Applications in Virginia. (VR 270-01-0009) 1619

Table of Contents

Minimum Standards for the Accreditation of Child Day Programs Serving Children of Preschool Age or Younger in Public Schools. (VR 270-01-0060) 1619

Minimum Standards for the Accreditation of Child Day Programs Serving School Age Children Offered in Public Schools. (VR 270-01-0061) 1619

DEPARTMENT OF HEALTH

Regulations Governing the Emergency Medical Services Do Not Resuscitate Program. (VR 355-32-500) 1620

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

State Plan for Medical Assistance Relating to Expanded Coverage for Children Ages 6 to 19. 1620

Coverage and Conditions of Eligibility (Attachment 2.2-A). (VR 460-02.2100:1) 1620

Eligibility Conditions and Requirements (Attachment 2.6-A). (VR 460-02-2.6100:1) 1620

Income Eligibility Levels (Supplement 1 to Attachment 2.6-A). (VR 460-03-2.6101:1) 1620

More Liberal Income Disregards (Supplement 8a to Attachment 2.6-A). (VR 460-03-2.6108.1) 1620

More Liberal Methods of Treating Resources under § 1902(r)(2) of the Act (Supplement 8b to Attachment 2.6-A). (VR 460-03-2.6108.2) 1620

SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Department of Forestry. 1621

GENERAL NOTICES/ERRATA

DEPARTMENT OF HEALTH

General Notice Requesting Comment on Recycle of Certain Drinking Water Plant Wastewaters. 1622

General Notice Requesting Comment on Viability and Comprehensive Business Plan for Certain Drinking Water Systems. 1622

VIRGINIA CODE COMMISSION

Notice of mailing address. 1622

Forms for filing material on dates for publication. .. 1622

ERRATA

STATE AIR POLLUTION CONTROL BOARD

Regulations for the Control and Abatement of Air Pollution (Revision JJ – Federal Operating Permits for Stationary Sources). (VR 120-01) 1623

Regulations for the Control and Abatement of Air Pollution (Revision KK – Permit Program Fees for Stationary Sources). (VR 120-01) 1623

DEPARTMENT OF HEALTH

Biosolids Use Regulations. (VR 355-17-200) 1623

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services. (VR 470-02-13) 1623

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings 1624

CHRONOLOGICAL LIST

Open Meetings 1641

Public Hearings 1642

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †

† Indicates entries since last publication of the Virginia Register

V.A.R. Doc. No. R95-247; Filed January 17, 1995, 3:32 p.m.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

† Notice of Intended Regulatory Action

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Corrections intends to consider promulgating regulations entitled: **VR 230-01-06. Regulations for Private Management and Operation of Prison Facilities.** The purpose of the proposed action is to establish minimum standards for the administration and operation of private prisons. The agency intends to hold a public hearing on the proposed regulation after publication.

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Mineral Mining Examiners intends to consider promulgating regulations entitled: **VR 480-04-3. Certification Requirements for Mineral Miners.** The purpose of the proposed action is to establish a separate regulation setting requirements for the certification of mineral miners. The 1994 General Assembly established the Board of Mineral Mining Examiners as a board separate from the Board of Examiners, which previously oversaw certification of both coal and mineral miners. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 53.1-266 of the Code of Virginia.

Statutory Authority: § 45.1-161.46 C of the Code of Virginia.

Written comments may be submitted until February 24, 1995.

Written comments may be submitted until March 8, 1995.

Contact: Amy Miller, Regulatory Coordinator, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3119.

Contact: Conrad T. Spangler, Chairman, Board of Mineral Mining Examiners, Division of Mineral Mining, P.O. Box 3727, Charlottesville, VA 22903-0727, telephone (804) 961-5000 or toll-free 1-800-828-1120 (Virginia Relay Center)

V.A.R. Doc. No. R95-224; Filed January 4, 1995, 12:05 p.m.

V.A.R. Doc. No. R95-248; Filed January 17, 1995, 3:31 p.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Board of Mineral Mining Examiners

DEPARTMENT OF STATE POLICE

† Notice of Intended Regulatory Action

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Mineral Mining Examiners intends to consider repealing regulations entitled: **VR 480-04-2. Board of Examiners Certification Regulations.** The purpose of the proposed action is to replace the provisions in the Board of Examiners regulations governing mineral miner certifications with ones promulgated under the new Board of Mineral Mining Examiners established by the 1994 General Assembly. The agency intends to hold a public hearing on the proposed repeal after publication.

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider promulgating regulations entitled: **VR 545-01-18. Regulations Governing the Operation and Maintenance of the Sex Offender Registry.** The purpose of the proposed regulation is to replace emergency regulations currently in effect. The Department of State Police is required to govern the operation and maintenance of the Sex Offender Registry as required by § 19.2-390.1 of the Code of Virginia. No public hearing is planned after publication of the proposed regulation.

Statutory Authority: § 45.1-161.46 C of the Code of Virginia.

Statutory Authority: § 19.2-390.1 of the Code of Virginia.

Written comments may be submitted until March 8, 1995.

Written comments may be submitted until February 23, 1995.

Contact: Conrad T. Spangler, Chairman, Board of Mineral Mining Examiners, Division of Mineral Mining, P.O. Box 3727, Charlottesville, VA 22903-0727, telephone (804) 961-5000 or toll-free 1-800-828-1120 (Virginia Relay Center)

Contact: Lieutenant John G. Weakley, Assistant Records Management Officer, P.O. Box 27472, Richmond, VA 23261,

Notices of Intended Regulatory Action

telephone (804) 674-2022.

V.A.R. Doc. No. R95-223; Filed January 4, 1995, 12:22 p.m.

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.

VIRGINIA STATE BAR

EDITOR'S NOTICE: The Virginia State Bar is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 2 of the Code of Virginia, which exempts agencies of the Supreme Court.

Title of Regulations: VR 167-01-301. Bylaws of the Virginia State Bar and Council.

Statutory Authority: § 54.1-3910 of the Code of Virginia.

Summary:

The proposed regulation is designed to outline state bar and council meeting and committee procedures. The regulation defines membership/officers of the state bar and council and sets forth policies relating to elections and voting.

VR 167-01-301. Bylaws of the Virginia State Bar and Council.

PART I. BYLAWS OF THE VIRGINIA STATE BAR.

Article 1. Members.

§ 1.1. Membership of bar.

The Virginia State Bar is comprised of all attorneys licensed to practice law in Virginia.

Article 2. Officers.

§ 1.2. Officers of bar.

The officers of the Virginia State Bar shall be a president, a president-elect, and a secretary-treasurer.

Article 3. Election of President-Elect.

§ 1.3. Nominations.

In order to qualify for election to the office of president-elect, a candidate must be duly qualified as set forth in Paragraph 4 of the Rules of Court, Part Six, Section IV, and must file a nominating petition with the executive director.

§ 1.4. Petition.

The nominating petition shall be signed by at least 50 members of the Virginia State Bar and shall be signed by the candidate, who shall certify that he is qualified to run for the office. The nominating petition must be received by the executive director on or before March 15 of each year.

§ 1.5. Method of election.

In the event only one nominating petition is received by the executive director on or before March 15 of any year, the election for the office of president-elect shall be held at the next annual meeting in accordance with the provisions of Article 4 of this part.

In the event two or more nominating petitions are received by the executive director on or before March 15 of any year, the election of the president-elect will be in accordance with the provisions of §§ 1.6 and 1.7.

§ 1.6. Mail ballots.

In the event nominating petitions for two or more candidates are received by the executive director on or before March 15 of any year, then:

1. The executive director shall prepare a ballot which shall list in alphabetical order the names of those persons nominated to the office of president-elect; and
2. The ballot shall be mailed to all members on or before April 15. The form of the ballot and the procedure for the collection and tabulation of ballots shall be determined by the executive director.

§ 1.7. Mail ballot elections.

The ballots shall be collected and counted in a manner which assures the confidentiality of the members' votes. A plurality of the votes cast by all members shall elect. No ballot received by the executive director after May 1 shall be counted.

§ 1.8. General provisions.

The following provisions shall be applicable to any election of the president-elect under this article.

1. For purposes of these provisions, a "member" is an active member in good standing of the Virginia State Bar. Only such person may nominate, be nominated, vote or be elected in any election for the office of

Proposed Regulations

president-elect.

2. Records maintained by the executive director as to membership and good-standing status shall be controlling.

3. The failure to comply with the dates designated for the concurrence of completion of certain acts shall not invalidate any election, unless substantial prejudice can be shown to have resulted therefrom.

4. For purposes of determining voter and candidate eligibility, the membership list maintained by the executive director as of March 15 shall be controlling. Except to correct clerical errors in records maintained as of that date, no revisions or additions to the membership list for purposes of the election shall be made after March 15.

5. The executive director shall announce the results of the election for the office of president-elect in a newsletter, magazine or other mailing of the bar, after the election.

6. Any responsibility assigned herein to be discharged by the executive director may be assured and discharged by the executive committee, as its discretion.

7. Any challenge to an election shall be resolved by a committee which shall be chaired by the president and shall include the president-elect, the immediate past president and two members of council appointed by the president who shall not be current members of the executive committee.

Article 4. Meetings.

§ 1.9. Notice of meetings.

The secretary shall give 30 days' notice by mail of annual meetings of the bar, and such written notice of special meetings of the bar as the executive committee shall prescribe in its call. Meetings of the organization shall be held at such times and places and after such notices as may be prescribed by the appropriate provisions of Section IV, Rules of the Supreme Court for the Integration of the Virginia State Bar and Council Bylaws.

§ 1.10. Quorum.

A quorum at any such meeting shall be as set forth in the Court Rules.

§ 1.11. Program.

The program and order of business at any meeting of the Virginia State Bar, unless otherwise ordered by the council, shall be determined by the president in consultation with the president-elect and the executive

director.

§ 1.12. Rules of order.

Proceedings at any such meeting shall be governed by Roberts Rules of Order, except that no member shall without unanimous consent speak more than twice on any one subject nor more than five minutes at any one time.

§ 1.13. Voting.

Voting at any such meeting shall be viva voce with each active member present entitled to vote, unless at least 10 active members shall either before or immediately after such vote demand a vote by judicial circuits on a roll called in numerical order. In the latter event, each circuit shall be entitled to one vote for each 25 active members or fraction of 25 registered in that circuit. When a vote by circuits is ordered, the active members present from each circuit shall cast the entire vote to which such circuit is entitled. If there be a division among the active members present from any circuit as to how the vote of such circuit shall be cast, the vote of such circuit shall be divided and cast in proportion to the vote on such division, unless such circuit at a meeting of its members shall have adopted and caused to be certified to the secretary a resolution providing that the entire vote of such circuit shall be cast as a majority of the active members from that circuit present and voting shall determine.

Provided however, that in any election for the office of president-elect, voting shall be viva voce unless more than one candidate shall be duly nominated, in which event voting shall be by written ballot by judicial circuits as provided in Article 3.

§ 1.14. Registration.

An active member shall be deemed to be registered in the circuit where he is entitled to vote for a member of council provided that for the purpose of this section, no member may change his registration within five days preceding a meeting of the organization. At the opening of the meeting the secretary shall post in a conspicuous place a list showing the number of votes to which each circuit is entitled and shall, upon the request of a member of any circuit, also post a list of the active members officially registered in that circuit. The lists so posted shall be conclusive as to the number of votes to which each circuit in which an active member is registered, may be appeal to the floor; but the circuits or members affected shall not vote on such appeal.

Article 5. Committees.

§ 1.15. Appointments.

Unless otherwise provided in the Court Rules, all committees shall be appointed by the president, who shall have power to determine the size of the committee and to

designate the chairman thereof and to fill any vacancy therein.

§ 1.16. Quorum.

A majority of any committee shall constitute a quorum.

Article 6. Committee on Resolutions.

§ 1.17. Standing Committee on Resolutions.

There shall be a Standing Committee on Resolutions to consider and report on all resolutions offered from the floor, which resolutions shall automatically be referred without debate to the Committee on Resolutions, provided that specific resolutions proposed in the written report of any standing or special committee shall not be referred to the Committee on Resolutions unless so ordered by the meeting; and provided further that by a four-fifths vote reference of any resolution to the Committee on Resolutions may be dispensed with, the motion for which may be debated.

PART II. BYLAWS OF THE COUNCIL.

Article 1. Members.

§ 2.1. Membership of council.

The council is comprised of attorneys elected or appointed in accordance with applicable provisions of § 4, Rules of the Supreme Court for the Organization and Government of the Virginia State Bar.

Article 2. Election of Council.

§ 2.2. Election of members.

The election of members of council for each circuit shall be by one of the two following methods.

§ 2.3. Circuit bar meeting.

Prior to March 1 of any year in which a council member from the circuit is to be elected, the executive director shall notify the chief judge of the circuit of the need for a meeting of the bar of the circuit and the number of vacancies to be filled. The executive director shall obtain from the chief judge the date and location for a meeting of the members of the circuit which shall be held prior to May 1. The executive director shall mail a written notice to the members of the meeting at least 14 days before such meeting.

All members whose Virginia State Bar membership mailing addresses are maintained in the circuit may attend and vote at the meeting. A quorum shall consist of those

members who vote at the meeting. No member shall vote by proxy. Prior to the meeting, the executive director shall transmit to the chief judge or the designated presiding officer a list of the members whose names appear on the membership roster for such circuit. The chief judge shall either preside at the meeting, designate another active or retired judge of the circuit to preside, or designate an attorney to preside who is neither a candidate for election to council nor associated in the practice of law with a candidate nominated for election.

At the circuit meeting, any member eligible to vote in the circuit who is not then serving a second successive full term on council shall be eligible for election. Nominations may be made at the circuit meeting or by any member eligible to vote in the circuit. No supporting petition or second for such nomination will be required. After the nominations are closed, an election by written ballot shall be conducted. In the event of a tie vote, the winner shall be chosen by lot drawn by the presiding judge or his designee.

Within 10 days after the meeting, the presiding officer or the chief judge shall communicate the names of the person or persons elected to the executive director.

§ 2.4. Mail ballot.

On or about March 1, the executive director shall cause to be mailed to every member eligible to vote in the circuit a notice of any vacancy or vacancies on council and a brief description of the method of nomination and voting. All members whose Virginia State Bar membership mailing addresses are maintained in the circuit are eligible to vote.

Nominations for election to council shall be by petition filed by the candidate with the executive director. Such petition shall be signed by not fewer than the other members eligible to vote in the circuit, and shall be accompanied by a statement of qualifications not exceeding 150 words. Nominations must be filed in the office of the executive director on or before April 1. Any petition failing to comply with these requirements shall be rejected.

On or before April 15, the executive director shall mail to all eligible members of the circuit a ballot containing the names of all persons nominated, along with each nominee's statement of qualifications.

Ballots shall be in a form prescribed by the executive director and shall be collected and counted in a manner prescribed by the executive director. In the event of a tie vote, the executive director shall pick the winner by lot. No ballot received by the executive director after May 1 shall be counted.

Write-in votes shall be permitted, but the executive director may exclude illegible write-in votes. In those instances where there are more candidates for council

Proposed Regulations

positions than there are positions to be filled from the circuit, the ballot will contain instructions to vote only for the same number of persons as there are positions to be filled; ballots which do not conform to this requirement will not be counted.

§ 2.5. General provisions.

The following provisions shall be applicable to both methods of election:

1. The timeline for special elections to fill vacancies on council shall be determined by the executive director.
2. For purposes of these provisions, a "member" is an active member in good standing of the Virginia State Bar. Only such person may nominate, be nominated, vote or be elected in any council election.
3. Records maintained by the executive director as to memberships, good-standing status and assignment of a member to a particular circuit shall be controlling.
4. The failure to comply with dates designated for the occurrence or completion of certain acts shall not invalidate any election unless substantial prejudice can be shown to have resulted therefrom.
5. In all elections the candidate receiving the highest number of votes shall be elected.

In the event that more than one full term is to be filled by circuit at any single election, the candidates receiving the highest number of votes shall be elected.

In the event that a regular election and special election to fill an unexpired term are held simultaneously in the same circuit, they shall be conducted as a single election and the successful candidate receiving the highest number of votes shall be entitled to choose either a regular term or the unexpired term, with the choice passing down in order until the unexpired term is selected. The successful candidate receiving the lower number of votes shall be elected to fill the term not chosen. In the event two or more unexpired terms are to be filled in the same election, the longer unexpired term shall go to the successful candidate receiving the highest number of votes who choose to fill an unexpired term.

6. As a part of the election process in each circuit under these bylaws, the voting members of the circuit shall prescribe the method for that circuit's next election and, in the event of a meeting, shall determine the length of time during which ballots may be cast in the next election, not to exceed one business day. A vote to change the method of election shall be by majority of votes cast. The ballot in each circuit's election shall provide a space for the voting member to indicate a preference for one of the two

election methods described by these bylaws. For the meeting method, the ballot shall also provide a space to indicate whether voting shall be allowed all day, half day or only during the meeting. No quorum call shall be required for any meeting.

7. For purposes of determining voter and candidate eligibility, the membership list maintained by the executive director as of March 15 shall be controlling. Except to correct clerical errors in records maintained as of that date, no changes in circuit membership, revisions or additions to the membership list for purposes of the election shall be made after March 15.

8. The executive director shall announce the results of council elections in a newsletter, magazine or other mailing of the bar after the election.

9. Any challenge to an election shall be resolved by a committee which shall be chaired by the president and shall include the president-elect, the immediate past president, and two members of council appointed by the president who shall not be current members of the Executive Committee.

Article 3.

Secretary Treasurer (Executive Director).

§ 2.6. Duties.

The secretary-treasurer (executive director) shall perform all duties prescribed by the rules and these bylaws, and in addition such other duties as may be delegated to him from time to time by the council or Executive Committee. He shall act as secretary of the bar, of the council and of the Executive Committee.

§ 2.7. Surety bond.

The secretary-treasurer (executive director) shall give bond of \$250,000 with corporate surety conditioned for the faithful performance of his duties, the premium of which shall be paid by the bar.

Article 4.

Notices of Meetings.

§ 2.8. Notice of meetings.

The secretary shall give 20 days' notice by mail of all meetings of the council, and five days' notice by mail of all meetings of the executive committee. Notice of mailing shall commence on the date of mailing.

Article 5. Meetings.

§ 2.9. Bar meetings.

In the absence of specific action by the council, the

Proposed Regulations

Executive Committee shall fix the time and place of the annual meetings of the bar, and may call any special meetings of the bar at such time and place as it shall designate.

§ 2.10. Council meetings.

In the absence of specific action by the council, the Executive Committee shall fix the time and place of all meetings of the council. There shall be at least two meetings annually. Special meetings of the council may be called at any time by the Executive Committee. The Executive Committee shall call a special meeting at the written request of 12 members of the council.

§ 2.11. Called meetings.

The Executive Committee shall meet on the call of the president or of the president-elect and a meeting shall be called at the written request of three members of the committee.

§ 2.12. Rules of order.

Proceedings at all meetings shall be governed by Roberts Rules of Order, except that no member shall without unanimous consent speak more than twice on any one subject or more than five minutes at any one time.

Article 6. Executive Committee.

§ 2.13. Membership.

There shall be an Executive Committee consisting of 10 members, six of whom shall be elected annually by and from council, with the president, president-elect, immediate past president and president of the young lawyers conference.

§ 2.14. Quorum.

A quorum of the Executive Committee shall consist of five members thereof.

§ 2.15. Allocation of funds.

The Executive Committee shall have authority to allocate funds as required by Rule 9(f) within the amounts available; to employ such assistants as it deems necessary, and fix their duties and compensations; to cause proper books of accounting to be kept and audited annually, and cause proper financial statements of receipts and expenditures to be prepared and presented to the council and to the bar; to adopt and promulgate such forms as may be necessary for putting into effect these bylaws and the Rules of Court; and between meetings of the council to perform such other duties and functions as are prescribed for the council in the Rules of Court, except such functions and duties as the council may reserve to itself or may delegate to other committees.

Article 7. District Committees.

§ 2.16. Designation of committees.

The several district committees provided for by Part 6, § 4, Paragraph 13 of the Rules of Court and elected by the council shall be known as district committees under numerical designation of the respective districts, for example, First District Committee, etc. A committee shall consist of nine or, in the discretion of council, 18, 27 or 36 members. Two members of a nine-member committee, four members of an 18-member committee, six members of a 27-member committee, and eight members of a 36-member committee shall be nonlawyers, but no member of the council shall be a member of a district committee.

§ 2.17. Organization of committees.

Effective July 1, 1992, the district committees shall be comprised of the following judicial circuits:

- First District Committee: Circuits 1, 3, 5, 7, and 8
- Second District Committee: Circuits 2 and 4 (2 sections)
- Third District Committee: Circuits 6, 11, 12, 13 and 14 (3 sections)
- Fourth District Committee: Circuits 17 and 18 (2 sections)
- Fifth District Committee: Circuits 19 and 31 (3 sections)
- Sixth District Committee: Circuits 9 and 15
- Seventh District Committee: Circuits 16, 20 and 26
- Eighth District Committee: Circuits 23 and 25
- Ninth District committee: Circuits 10, 21, 22, and 24
- Tenth District Committee: Circuits 27, 28, 29 and 30 (2 Sections)

§ 2.18. Notice to members.

The secretary shall notify the members of each committee of their appointments and the committee of each district shall meet within 40 days thereafter and shall elect from their members a chairman, vice-chairman, secretary and assistant secretary and such other officers as they deem necessary, all of whom shall serve at the pleasure of the committee.

Article 8. Standing Committees.

§ 2.19. Committee on Legal Ethics.

There shall be a standing committee, to be appointed by the president and to be known as the Committee on Legal Ethics. The committee shall consist of nine active members of the bar, a majority of whom shall be members of the council. All powers and duties of the council with respect to legal ethics, not otherwise delegated or reserved, shall be exercised and discharged by the committee.

Proposed Regulations

§ 2.20. Committee on unauthorized practice of law.

There shall be a standing committee, to be appointed by the president and to be known as the Committee on the Unauthorized Practice of Law. The committee shall consist of nine members. Seven of the members shall be active members of the bar, five of whom shall be members of the council. Two of the members shall be nonlawyers. All powers and duties of the council with respect to the unauthorized practice of law, not otherwise delegated or reserved, shall be exercised and discharged by the committee.

§ 2.21. Committee on Lawyer Discipline.

There shall be a standing committee, to be appointed by the president and to be known as the Committee on Lawyer Discipline. The committee shall consist of 12 persons, 10 of whom shall be active members of the bar and two shall be nonlawyers. In addition, the Vice Chairman of the Virginia State Bar Disciplinary Board shall be an ex-officio, nonvoting member of the committee. At least two of the lawyers who are members shall be members of the council. All members shall serve a three-year term and the president shall appoint members to the committee so as to allow for the retirement from the committee of one-third of its membership at the end of each fiscal year. No member shall serve more than two consecutive three-year terms. All powers and duties of the council with respect to operation of the bar's disciplinary system, not otherwise delegated or reserved, shall be exercised and discharged by the committee.

§ 2.22. Committee on Professionalism.

There shall be a standing committee to be appointed by the president and to be known as the Committee on Professionalism. The committee shall consist of 16 active members of the bar, at least five of whom shall be members of the council, and at least one of whom shall, when initially appointed, be an officer or member of the Board of Governors of the Young Lawyers Conference. In addition, the Virginia State Bar Counsel shall be an ex-officio member of the committee. Five members shall be appointed for a one-year term effective July 1, 1990. Five members shall be appointed for a two-year term effective July 1, 1990. Six members shall be appointed for a three-year term effective July 1, 1990. All member subsequently appointed shall serve for a three-year term. No member may serve more than two consecutive three-year term. All powers and duties of council with respect to the implementation of Paragraph 13.1 of Part Six, Section IV of the Rules of the Supreme Court of Virginia, and with respect to professionalism in the practice of law in Virginia, not otherwise delegated or reserved, shall be exercised and discharged by the committee.

§ 2.23. Committee on Lawyer Advertising and Solicitation.

There shall be a standing committee, to be appointed by

the president and to be known as the Committee on Lawyer Advertising and Solicitation. The committee shall consist of 12 persons, 10 of whom shall be active members of the bar and two shall be nonlawyers. At least two of the lawyers who are members shall be members of the council. Three of the lawyers who are members and one nonlawyer member shall be appointed for a three-year term effective retroactively on July 1, 1992. Four of the lawyers who are members shall be appointed for a one-year term effective retroactively to July 1, 1992. All members subsequently appointed shall serve for a three-year term. No member shall serve more than two consecutive three-year terms. All powers and duties of the council with respect to monitoring compliance with the Code of Professional Responsibility governing lawyer advertising and solicitation, including the issuance of advisory opinions regarding the same, not otherwise delegated or reserved, shall be exercised and discharged by the committee.

Article 9.

Votes by Mail or Telephone.

§ 2.24. Voting.

By unanimous consent of the members of any committee, all questions before such committee may be settled by mail ballot or telephone call.

Article 10.

Vacancies in Committees.

§ 2.25. Vacancies.

All vacancies in committees appointed by the president shall be filled by him. Vacancies in other committees shall be temporarily filled by the president, or his appointees, to act until the next meeting of the council.

Article 11.

Sections.

§ 2.26. Sections.

The council may create and abolish sections as it may consider necessary or desirable to accomplish the purposes and serve the interests of the Virginia State Bar and of the sections and shall prescribe the powers and duties of the sections. The bylaws of any section shall be subject to approval of council.

* * * * *

Title of Regulation: VR 167-01-401. Rules of Disciplinary Procedures for Virginia State Bar Staff and District Committees.

Statutory Authority: § 54.1-3909 of the Code of Virginia.

Summary:

Proposed Regulations

The proposed regulation is designed to outline the procedures to be followed by the Virginia State Bar upon receipt of a charge of misconduct against an attorney including investigative procedures and actions to be taken by the subcommittees and district committees in response to the charges.

VR 167-01-401. Rules of Disciplinary Procedures for Virginia State Bar Staff and District Committees.

§ 1. Definitions.

Each reference hereafter to "Paragraph 13" means Paragraph 13 of the Rules of the Supreme Court of Virginia, Part Six, Section IV.

All terms defined in Paragraph 13 shall have the same meaning in these Rules and are hereby incorporated by reference herein.

"Bar official" means any Virginia State Bar officer, council member, board member, committee member, employee or counsel.

"Chairman," unless otherwise specified in the context, means the chairman or acting chairman of a district committee, or of a designated section or panel thereof.

"Director of Public Information" means the person designated by the Executive Director of the Virginia State Bar as Director of Public Information and also includes any assistants so designated.

"Disbarment" means revocation.

"Disciplinary investigation" means any inquiry or proceeding by any bar official concerning any possible misconduct or crime by, or any disability on the part of, an attorney, unless such inquiry or proceedings has resulted in, or been the basis for, any public record action against the attorney by the board or a committee.

"Disciplinary records" means any record of any proceeding in which the respondent has been found guilty of misconduct, including those proceedings in which the board's or court's finding of misconduct has been appealed to the Supreme Court of Virginia or in which the respondent has surrendered his license to the Supreme Court of Virginia or has been found guilty of a crime.

"Disciplinary records" shall also include those cases in which a charge of misconduct has been dismissed under Rules IV(B)(2)(c) or (e), IV(B)(4), V(A)(4)(f)(1)(c) or (e), or V(A)(4)(f)(2) of the Council Rules of Disciplinary Procedure.

"Disciplinary trial" means any public record proceedings against an attorney predicated upon misconduct, crime, disability or a petition by an attorney under Paragraph 13 I for revocation of his license while charges are pending against him before the board, a committee or a court.

"Executive Committee" means "Executive Committee" as defined in Article 6 of the Bylaws of the Council.

"Investigation" means that investigation conducted by bar counsel or committee's counsel following the filing of a charge of misconduct with a district committee.

"Preliminary investigation" means that investigation conducted by bar counsel prior to the filing of a charge of misconduct with a district committee.

"Revocation" means revocation of an attorney's license (i) by the board whether for misconduct, crime, disability or suspension or revocation in another jurisdiction or (ii) by a court, whether pursuant to Paragraph 13 I or § 54.1-3935 of the Code of Virginia.

§ 2. Preliminary investigation by bar counsel.

Upon receipt of a charge of misconduct against an attorney, bar counsel shall initiate a preliminary investigation. Bar counsel shall conclude the preliminary investigation within 60 days of the date on which the charge of misconduct was received by the bar.

Bar counsel or committee's counsel may issue such summons or subpoena as such counsel may reasonably deem necessary for effective conduct of the preliminary investigation.

At the conclusion of the preliminary investigation, bar counsel shall:

1. Dismiss the charge of misconduct upon a finding that the charge has no basis in fact;
2. Dismiss the charge of misconduct upon a finding that the charge, if proved, would not constitute misconduct; or
3. File a written charge of misconduct with a district committee.

Bar counsel may, at the time of filing the charge of misconduct with the district committee, recommend that the charges of misconduct be dismissed by the subcommittee upon any of the bases set forth in § 4 B 2 without further investigation.

§ 3. Investigations by bar counsel or committee counsel.

A. When filing charges of misconduct with a district committee, bar counsel shall notify the chairman thereof of bar counsel's recommendation that the matter be dismissed immediately as provided in subdivision 3 of § 2 or that it be investigated by a member of bar counsel's staff, by a district committee member, or both. The district committee chairman shall promptly notify bar counsel of any disagreement with bar counsel's recommendation as to who should conduct the investigation. If bar counsel and the district committee

Proposed Regulations

chairman are unable to agree, the standing committee or a member thereof serving as its designee, shall determine by whom the investigation is to be conducted.

Bar counsel shall also inform both the respondent and the complainant in writing that the matter has been filed with the district committee.

B. Unless the charges of misconduct have been dismissed by the subcommittee, bar counsel or committee counsel shall submit to the subcommittee a report of investigation within 120 days of the filing of the charges of misconduct with the district committee. When submitting a report of investigation to the subcommittee, bar counsel or committee counsel shall include a recommendation as to the appropriate disposition of the charges of misconduct and shall indicate any agreement with the respondent with respect to such recommendation.

Bar counsel's recommendation shall be that:

1. The charges of misconduct be dismissed upon any of the bases set forth in § 4 B 2, infra;
2. The charges of misconduct be set for hearing before a district committee or certified to the board;
3. The investigation be concluded pursuant to a disposition agreed upon by bar counsel and the respondent; or
4. The matter be continued for further investigation.

§ 4. Action by the subcommittee.

A. The subcommittee may conduct its meetings and take action by any practical means, including written, telephonic or facsimile communication, so long as all members have simultaneously participated in the deliberative process.

B. Upon receipt of bar counsel's recommendation of dismissal or a report of investigation, the subcommittee shall:

1. Refer the matter to bar counsel for further investigation;
2. Dismiss the charges of misconduct when:
 - a. As a matter of law the conduct questioned or alleged does not constitute misconduct, or
 - b. (i) The evidence available shows that the respondent did not engage in the misconduct questioned or alleged, or (ii) there is no credible evidence to support any allegation of misconduct by respondent, or (iii) the evidence available could not reasonably be expected to support any allegation of misconduct under a "clear and convincing" evidentiary standard, or

c. (i) The alleged or questioned misconduct is clearly not of sufficient magnitude to warrant disciplinary action, and respondent has taken reasonable precautions against a recurrence of same, or (ii) the subcommittee concludes that the respondent has engaged in misconduct and that the matter should be dismissed with terms. If the subcommittee dismisses the charges of misconduct with terms and the respondent fails to comply with such terms, the subcommittee shall set the charges of misconduct for a hearing before the district committee, or

d. The alleged misconduct is protected by superseding law, or

e. There exist exceptional circumstances militating against further proceedings, which circumstances shall be set forth in writing.

3. Subject to the approval of the district committee or panel, certify the charges of misconduct to the disciplinary board. Certification hereunder shall be based on a reasonable belief that the respondent has engaged or is engaging in misconduct which, if proved, would justify a suspension or revocation of respondent's license to practice law;

4. Impose one of the following conditions or sanctions:

a. A private reprimand, with or without terms;

b. A public reprimand, with or without terms; or

5. Set the charges of misconduct for hearing before the district committee. Notwithstanding any other provision of these rules, any member of the subcommittee may require that the charges of misconduct be set for such hearing.

No action under subdivision 4 of this section shall be taken by the subcommittee except by unanimous vote and with the concurrence of both bar counsel and the respondent.

C. In any case where terms are included in the disposition, the subcommittee shall specify the time period within which compliance shall be completed and the alternative disposition in the event the terms are not complied with. Bar counsel shall be responsible for monitoring compliance with terms and reporting any noncompliance to the subcommittee. If the respondent fails to comply with the terms within the stated time period, as determined by the subcommittee, the alternative disposition shall be imposed.

Wherever it appears that the respondent has not complied with the terms imposed, bar counsel shall serve notice on the respondent requiring him to show cause why the alternative disposition should not be imposed. Such show cause proceeding shall be set for hearing before the

district committee at its next available hearing date. The burden of proof shall be on the respondent to show by clear and convincing evidence that he has complied with the terms imposed.

D. All decisions of the subcommittee shall be reported to the district committee within 30 days of such action. Any report of decisions to certify charges of misconduct shall be made by the chairman of the subcommittee or his designee, who shall furnish a brief and concise narrative of the complaint and the subcommittee's reasons for its decision. The district committee shall then either approve or disapprove the decision to certify. If the district committee disapproves the decision, the district committee shall set the charges of misconduct for hearing in accordance with the procedures set forth in § 5, *infra*.

§ 5. Action by the district committee.

A. Hearing procedure.

1. Notice of hearing. Bar counsel shall issue the notice required by Paragraph 13(B)(6)(a).

2. Summons and subpoena. Any summons or subpoena issued on behalf of the district committee shall be issued by bar counsel. The committee chair may quash such summons or subpoena upon motion of the respondent or a third party, for good cause shown. The committee chair may for cause decline to issue any particular summons or subpoena requested by respondent or his counsel.

3. The record. Unless otherwise specified by the district committee chairman, bar counsel shall make the necessary arrangements to preserve a true and complete record of the hearing.

4. Hearing procedure.

a. Preliminary explanation. The presiding district committee member shall state in the presence of the respondent and the complainant, if there be one:

- (1) A summary of the alleged misconduct,
- (2) The nature and purpose of the hearing as an investigative proceeding,
- (3) The procedures to be followed during the hearing,
- (4) The disposition available to the district committee following the hearing.

b. Exclusion of nonessential persons. Only the following may be present throughout the hearing: members of the district committee, the respondent, the complainant, counsel for the respondent and the complainant, bar counsel, the executive director, committee's counsel, members of the standing

committee on lawyer discipline, and the court reporter. Counsel for individual witnesses, other than the respondent and the complainant, may attend the hearing during their client's testimony.

c. Presentation of evidence.

(1) Bar's evidence. Bar counsel or committee's counsel shall present on behalf of the bar the evidence supporting the allegations in the notice. District committee members may examine witnesses testifying in support of the allegations. Respondent shall be afforded the opportunity to cross-examine the bar's witnesses and to challenge any documentary or material evidence introduced on behalf of the bar.

(2) Respondent's evidence. Respondent shall be afforded the opportunity to present witnesses, other evidence and argument on behalf of respondent. Bar counsel or committee's counsel and district committee members may cross-examine respondent's witnesses or challenge respondent's documentary or material evidence.

(3) Other counsel. Neither counsel for the complainant, if there be one, nor counsel for any witness, may examine or cross-examine any witness, introduce any other evidence, or present any argument.

(4) Admissibility of evidence. The presiding district committee member shall rule on the admissibility of evidence, which rulings may be overruled by a majority of the remaining district committee members participating in the hearing. The district committee shall not be bound by the strict rules of evidence.

d. Final argument. The district committee shall afford a reasonable opportunity for argument on behalf of the respondent and the bar.

e. Deliberations. The district committee members shall thereafter deliberate in private. After due deliberation and consideration the district committee shall vote on the disposition of the matter. Committee's counsel, if any, shall be excluded from the private deliberations and voting on the matter. In determining what disposition of the matter is warranted, the district committee may consider any prior disciplinary records of respondent.

f. Disposition. After due deliberation and consideration, the district committee may either:

(1) Dismiss the matter, or a part thereof, as not warranting further action when in judgment of the district committee:

(a) As a matter of law the conduct questioned or

Proposed Regulations

alleged does not constitute misconduct,

(b) (i) The evidence available shows that the respondent did not engage in the misconduct questioned or alleged, or (ii) there is no credible evidence to support any allegation of misconduct by respondent, or (iii) the evidence available could not reasonably be expected to support any allegation of misconduct under a "clear and convincing" evidentiary standard,

(c) The alleged or questioned misconduct is clearly not of sufficient magnitude to warrant disciplinary action, and respondent has taken precautions against a recurrence of same,

(d) The alleged misconduct is protected by superseding law, or

(e) There exist exceptional circumstances militating against further proceedings, which circumstances shall be set forth in writing by the district committee chairman, whereupon the district committee chairman shall promptly notify respondent, the complainant and bar counsel, simultaneously, in writing, and shall furnish to each its reasons for dismissing the complaint.

(2) Determine that the respondent has engaged in misconduct, issue its district committee determination, and dispose of the matter in accordance with the procedures prescribed in the Rules of Court, Part 6, Section IV, Paragraph 13(B)(7) through (12); or

(3) Assign to bar counsel for investigation any matter perceived by the district committee during the hearing but outside the substantive scope of the conduct specified in the notice of the hearing.

B. Imposition of terms. In any case where terms are included in the disposition, the district committee shall specify the time period within which compliance shall be completed and the alternative disposition in the event the terms are not complied with. Bar counsel shall be responsible for monitoring compliance with terms and reporting any noncompliance to the district committee. If the respondent fails to comply with the terms within the stated time period, as determined by the district committee, the alternative disposition shall be imposed.

Whenever it appears that the respondent has not complied with the terms imposed, bar counsel shall serve notice on the respondent requiring him to show cause why the alternative disposition should not be imposed. Such show cause proceeding shall be set for hearing before the district committee at its next available hearing date. The burden of proof shall be on the respondent to show by clear and convincing evidence that he has complied with the terms imposed.

C. Continuance of hearing. Once a district committee has scheduled a hearing, no continuance shall be granted unless in the judgment of the chairman or the district committee the continuance is necessary to prevent injustice.

D. Change in composition of district committee hearing a matter. Whenever a hearing has been adjourned for any reason and any of the members initially constituting the quorum for the hearing is unable to be present, the hearing of the matter may be completed by:

1. Furnishing to any such absent member or members, a transcript of the proceedings conducted in his absence, or
2. Substituting another committee member for any absent member, or members, and furnishing to such substitute a transcript of the prior proceedings in the matter.

For purposes of applying this rule, any show cause proceeding involving the issue of compliance with terms shall be deemed a new hearing and not a continuation of the hearing which resulted in the imposition of terms.

E. Request by complainant to withdraw complaint. No potential disciplinary matter shall be dismissed solely upon a request by a complainant to withdraw the complaint. Such matter may be dismissed following such request on the basis of any of the factors listed in § 4 B 2.

§ 6. Similarity between charges of misconduct and pending civil or criminal litigation.

Except in cases where, in the discretion of the committee, unusual circumstances exist, processing of complaints shall not be deferred or abated because of substantial similarity to the material allegations of pending criminal or civil litigation.

§ 7. Disclosure of exculpatory evidence.

Bar counsel shall make a timely disclosure to the respondent of all known evidence that tends to negate the misconduct of the respondent or mitigate its severity.

§ 8. Records retention.

A. Current matters.

1. Dockets. The Clerk of the Disciplinary System shall maintain current records of matters pending before the committees, the board, or any court of this Commonwealth.

2. Files. The Clerk of the Disciplinary System shall maintain a current file for each matter being investigated and for each matter pending before the board or a court of the Commonwealth.

B. Closed matters: files.

The Clerk of the Disciplinary System shall retain the closed files of any charge of misconduct resulting in a disciplinary record for a period of five years from the date of the final finding of misconduct. All other closed files may be destroyed one year after the file's closure.

Whenever a closed file is destroyed, the following information shall be preserved in lieu thereof:

- a. The name and bar identification number of respondent;
- b. The name and last known address of the complaining party, if there be one;
- c. The date the matter was initially received by the bar;
- d. The date of the dismissal or discipline;
- e. A summary of the charge of misconduct; and
- f. The disposition of the matter. Such disposition shall state precisely the basis for dismissal or the sanction imposed.

Such summary information shall be retained for five years whenever the charge of misconduct is dismissed upon a finding of no misconduct and for 10 years whenever the respondent is found to have engaged in misconduct.

C. Order books. The Clerk of the Disciplinary System shall preserve a copy of all district committee determinations and board or court orders in which an attorney has been found to have engaged in misconduct.

§ 9. Public dissemination of disciplinary information.

A. Disciplinary investigation. A Virginia State Bar official shall not, during the investigation of a disciplinary matter or after conclusion of such investigation without further action having been initiated as a matter of public record, initiate communication with a member of the public or communications media concerning such matter; however, if the subject matter of such investigation is independently a matter of public record and as a result thereof inquiry is made to said official by anyone concerning the subject matter, then such official shall only state without elaboration either:

1. That an appropriate official, committee or board is conducting an inquiry into the matter, or
2. That an investigation of the matter has terminated with a determination that further proceedings were not warranted.

B. Post trial. Subject to any prohibition in Paragraph 13

and following entry of an order by a district committee, the board (other than under Paragraph 13 E) or by a court imposing public discipline, a statement quoting pertinent portions of such order or pleadings shall be issued to the public communications media by the bar.

§ 10. Dissemination of disciplinary information to disciplinary authorities.

Whenever an attorney has been publicly disciplined, the Clerk of the Disciplinary System shall cause a summary or a copy of the public order imposing such discipline to be forwarded to the appropriate disciplinary authorities for other jurisdictions, federal or state, wherein it is reasonable to expect that such attorney may be licensed and he may cause such summary or copy to be forwarded to any agency, private or governmental, which disseminates such information to disciplinary authorities, to lawyers, or to the public.

§ 11. Election of district committee members.

Before nominating any individual for membership on a district committee, the council members making such recommendation shall first determine that the nominee is willing to serve on the district committee and will conscientiously discharge his responsibility as a member of the district committee. The Bar Council members making the nominations shall also obtain a statement from the nominee, in writing, that he is willing to serve on the district committee, if elected.

§ 12. Investigative assistants.

Bar counsel and the executive director shall be responsible for maintaining the availability of sufficient investigative assistance through bar employees, State Police or retained investigators to effectively investigate potential disciplinary matters.

§ 13. Substantial compliance with procedural requirements.

The actions required by these Rules of Disciplinary Procedure are procedural in nature and not substantive. Substantial compliance herewith shall be deemed sufficient. Noncompliance with any one or more of such actions shall not of itself be grounds for dismissing proceedings against a respondent. Respondent may introduce evidence of such noncompliance and present argument that such noncompliance so prejudiced his rights as to deny him a constitutional right of due process.

§ 14. Expenses.

Reasonable expenses incurred by the bar and its witnesses under these procedures or under Paragraph 13 shall be paid upon submission of any claim.

§ 15. Appeals.

Upon the entry of any appealable order of a court

Proposed Regulations

constituted under § 54.1-3936 of the Code of Virginia or of a circuit court in a proceeding instituted under Paragraph 13 J.(2) or (3) that is deemed by bar counsel to be adverse to the Virginia State Bar, bar counsel may, if so advised, take such steps as shall be necessary to preserve any right of appeal or right to petition therefor. In such event, bar counsel shall promptly notify the executive committee in writing of the action so taken.

§ 16. Disqualification of district committee member or member of law firm of district committee member.

Service on a district committee shall be deemed to be professional employment within the meaning of DR 4-101, DR 5-101, DR 5-102, DR 5-105, DR 8-101(A), and DR 9-101(A) and (B). Such service shall also be deemed public employment and public responsibility within the meaning of DR 8-101(A) and DR 9-101(A) and (B). "Consent" under DR 4-101, DR 5-101, DR 5-105 shall be deemed to include, and hereby require, consent by the bar. Bar counsel shall have the power to give such consent on behalf of the bar.

§ 17. Vacancy on district committee.

Whenever a vacancy occurs on a district committee, either through delinquency, resignation, disability or death, the executive committee may fill the vacancy.

A majority of a committee or a panel of a committee may request the executive committee to declare that a committee position held by any particular committee member has become vacant when, in the judgment of the majority, such member has become, or has been for any reason, unavailable for or delinquent in the conduct of the committee's business. Similarly, upon request of bar counsel, the executive committee shall have the power to declare such vacancy. Before such vacancy is declared, the particular committee member shall be afforded notice and a reasonable opportunity to be heard.

§ 18. Virginia Lawyer Referral Service.

Bar counsel shall implement procedures to enable the Virginia Lawyer Referral Service to remove from its referral lists the name of any member who is charged with misconduct and referred to a district committee, the board or a court, or who agrees to or is placed under disciplinary terms. Such procedures shall also enable such members to be thereafter reinstated on the referral list forthwith (i) following termination of such proceedings without respondent having been subjected to any limitation on his license to practice or terms having been imposed, of (ii) following the removal of any such limitations or successful compliance with terms imposed.

§ 19. Reconsideration of action by the subcommittees and district committees.

No matter dismissed by a subcommittee or district committee shall be reconsidered except by a unanimous

vote of those having participated in the decision to dismiss the matter unless the basis for reconsideration is evidence not known or available to the district committee when the matter was dismissed in which case it may be reconsidered by a simple majority of a quorum. No action by a district committee imposing a reprimand or certifying a matter to the board shall be reconsidered unless a majority of the district committee votes to reconsider the action. No member shall vote to reconsider same unless it shall appear to such member to be necessary to prevent an injustice or to be warranted by specific exceptional circumstances militating against adherence to the initial action by the district committee. Any decision to change an earlier district committee action must occur at a district committee meeting.

§ 20. Statistical reports.

Upon request of the Standing Committee on Lawyer Discipline, the Clerk of the Disciplinary System shall provide a report of all cases not reported upon within 120 days of the date of filing the charge of misconduct with the district committee.

§ 21. Administrative responsibilities of the district committee officers.

It shall be the responsibility of the district committee chairman, secretary, or any other member of the district committee so selected, to call such meetings of the subcommittee and the district committee as are necessary to effectively discharge the responsibility of that committee. Such officers, or members so designated, shall arrange for meeting sites for district committee meetings and hearings, determine that a quorum will be present for such meeting or hearing and promptly advise bar counsel whenever it appears that a quorum will not be present. In those instances where a subcommittee or district committee wishes to conduct its affairs via telephone conference call, the chairman, secretary, or other member of the committee so designated, shall ascertain a mutually convenient time and date for those persons participating in such conference call. Thereafter, such responsible person will notify bar counsel of the time, date, and parties who will participate in such conference call and bar counsel will make appropriate arrangements for that call.

It is the intent of council that the district committee will attend to the administrative affairs of its committee so as to promote the orderly and efficient discharge of its responsibilities.

* * * * *

Title of Regulation: VR 167-01-501. Disciplinary Board Rules of Procedure.

Statutory Authority: § 54.1-3909 of the Code of Virginia.

Summary:

The proposed regulation is designed to outline the procedures to be followed by the Disciplinary Board for misconduct hearings, hearings following criminal convictions, reinstatement hearings, and hearings following disbarment or suspension in another jurisdiction. Appeals of district committee determinations relating to bar disciplinary matters are also included.

VR 167-01-501. Disciplinary Board Rules of Procedure.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

All definitions in Paragraph 13 of Section IV of Part Six of the Rules of the Virginia Supreme Court and in the Virginia State Bar Council Rules of Disciplinary Procedure are incorporated herein.

§ 1.2. Meetings of the board.

The board, or any quorum thereof, shall meet upon the call of the chairman, the vice-chairman or any quorum, at such time and place as may be designated by such chairman, vice-chairman or quorum within a reasonable time prior to the date of the meeting so called.

§ 1.3. Assignments and disqualification.

The chairman shall establish a roster of board members sufficient to constitute a quorum for action on the matter to which they are being assigned. Any board member shall be ineligible to serve whenever (i) he or any member of his firm is involved in any significant way with the matter over which the quorum would act; (ii) he or any member of his firm was serving on the district committee which certified the matter to the board or has otherwise acted on the matter; or (iii) a full-time judge would be required to withdraw from consideration of, or presiding over, the matter under the Canons of Judicial Conduct adopted by the Virginia Supreme Court as Section III of Part Six of its Rules of Court. Any board member may, upon reasonable notice to the Clerk of the Disciplinary System or to the chairman, vice-chairman or other board member presiding over a matter, disqualify himself from participation in consideration of any such matter, whenever such member believes that he would be unable to participate objectively in consideration of such matter.

PART II. MISCONDUCT HEARINGS.

§ 2.1. Certification of charges of misconduct by a district committee.

Upon receipt of certification by a subcommittee or district committee of any charge of misconduct, the Clerk of the Disciplinary System shall open a current file for such matter on behalf of the board and shall forthwith

notify bar counsel of receipt of such certification. The Clerk of the Disciplinary System shall, within a reasonable time after receipt, cause to be served by certified mail upon the respondent a clear and concise statement of the charges certified to the board and date, time and location of the hearing and shall provide a copy of such mailing to bar counsel. If the respondent fails to file with the board within 21 days after the mailing of the aforesaid notice by bar counsel a written demand that further proceedings before the board be terminated and further proceedings be conducted pursuant to § 54.1-3935 of the Code of Virginia, then a quorum of the board shall be designated to hear the matter. Thereafter, the Clerk of the Disciplinary System shall promptly make the necessary arrangements for such hearing. If the respondent files a demand that further proceedings before the board be terminated, then bar counsel shall promptly prepare and file with the appropriate circuit court the pleadings required by § 54.1-3935 of the Code of Virginia, after which the board's file in the matter will be closed. The original of such demand shall be filed with bar counsel.

§ 2.2. Summons; subpoena.

Sua sponte, or upon written request by bar counsel or by respondent or his counsel, the board and the Clerk of Disciplinary System may issue summons or subpoena returnable at a time and place to be prescribed.

§ 2.3. Agreements as to disposition.

Whenever bar counsel and the respondent are in agreement as to the material facts controlling a charge of misconduct and desire to enter into an agreed disposition of the complaint, the parties may submit a proposed disposition agreement to five members of the board selected by the chairman. The five members so selected will constitute a panel of the board. If the proposed disposition agreement is accepted by the majority of the panel so selected, the disposition agreement will be adopted by order of the board. If the disposition agreement is not accepted by the panel, the charge of misconduct will then be set for hearing before another panel of the board at the earliest possible date. No member of the panel which considered the proposed disposition agreement shall be assigned to the panel which hears the charge of misconduct.

§ 2.4. Hearing procedure.

A. Request by complainant to withdraw complaint. No allegations or charges of misconduct shall be dismissed solely upon a request by a complainant to withdraw a complaint.

B. Preliminary explanation. The chairman, or other member selected to preside over the hearing, shall state in the presence of the respondent and the complainant, if there be one, a summary of the alleged misconduct, the nature and purpose of the hearing, the procedures to be followed during the hearing, and the dispositions available

Proposed Regulations

to the board following the hearing.

C. Exclusion of persons. All persons other than board members, respondent, bar counsel, executive director, the complainant, if there be one, the witness testifying, counsel to any of the aforesaid, members of the Standing Committee on Lawyer Discipline, the Clerk of the Disciplinary System and a court reporter shall be excluded throughout a private hearing. Witnesses who are not testifying shall be excluded from a public hearing on motion of bar counsel, the respondent, or the board until excused.

D. Continuance of a hearing. Once a hearing has been scheduled by the board, no continuance shall be granted except for good cause by the designated presiding board member. No continuance will be granted because of a conflict with the schedule of the respondent or respondent's counsel unless such continuance is requested in writing by counsel for the respondent within five days of the date of the notice of the hearing. Any request for a continuance shall be made to the presiding member of the board panel hearing the matter.

E. Change in composition of board hearing panel. Whenever a hearing has been adjourned for any reason and any of the members initially constituting the quorum for the hearing is unable to be present, the hearing of the matter may be completed by:

1. Furnishing to any such absent member or members, a transcript of the proceedings conducted in his absence, or

2. Substituting another board member for any absent member, or members, and furnishing to such substitute a transcript of the prior proceedings in the matter.

F. Opening statements. Brief opening statements by bar counsel and on behalf of respondent shall be permitted.

G. Presentation of evidence.

1. Bar counsel shall introduce the evidence supporting the allegations of misconduct, which evidence shall then be subject to cross-examination or other appropriate challenge by respondent.

2. Evidence may be introduced on behalf of the respondent which evidence shall then be subject to cross-examination or other appropriate challenge by bar counsel.

3. Bar counsel may introduce any available evidence in rebuttal to the evidence introduced on behalf of respondent.

4. Bar counsel may first make closing argument.

5. Closing argument may then be made on behalf of

respondent.

6. Bar counsel may make a rebuttal closing argument.

7. Neither counsel for the complainant, if there be one, nor counsel for any witness, may examine or cross-examine any witness, introduce evidence, or present any argument.

8. The presiding board member shall rule on the admissibility of evidence, which rulings may be overridden by a majority of the remaining board members participating in the hearing.

H. Deliberations. As soon after the conclusion of the evidence and arguments as may be practicable, the board shall deliberate in private. The board may address any legal questions it may have to the Office of the Attorney General.

I. Disposition. If the board concludes that:

1. The evidence fails to show under a "clear and convincing" evidentiary standard that the respondent had engaged in misconduct, the board shall dismiss the matter.

2. There has been presented "clear and convincing" evidence that the respondent had engaged in misconduct then the board shall:

a. State in writing:

(1) A brief statement of its findings of fact; and

(2) The nature of the misconduct evinced by such facts; and

b. Impose the following sanction:

(1) Dismissal with terms;

(2) Issuance of an admonition or public reprimand, with or without terms;

(3) Suspension of the license of the respondent for a stated period not exceeding five years; or

(4) Revocation of the license of the respondent.

J. Orders, findings, and opinions. In the event the board finds that the respondent has engaged in misconduct, it shall, prior to determining the appropriate sanction to be imposed, inquire of either the respondent or bar counsel or both whether the respondent has therefore been the subject of any disciplinary sanction in this or any other jurisdiction and shall give the bar and the respondent an opportunity to present evidence and arguments in aggravation or mitigation.

Following the decision of the board as to the disposition

of a matter, the presiding member or a member designated by him shall prepare the appropriate written statements, findings, opinions or orders, which shall be signed by the presiding member. Dissenting opinions may be filed.

No motion for reconsideration or modification of the board's decision shall be considered unless it is filed with the Clerk of the Disciplinary System and the presiding member of the hearing panel within 10 days of the hearing before the board. The moving party shall file an original and eight copies of the motion and all supporting exhibits with the Clerk of the Disciplinary System. Such motion shall be considered only to prevent manifest injustice upon the ground of:

1. Illness, injury or accident which prevented the respondent or a witness from attending the hearing and which could not have been made known to the board within a reasonable time prior to the hearing, or

2. Evidence which:

- a. Was not known to the respondent at the time of the hearing and could not have been discovered prior to, or produced at, the hearing in the exercise of due diligence; and

- b. Would have clearly produced a different result if the evidence had been introduced at the hearing.

If such a motion is timely filed, the Clerk of the Disciplinary System shall promptly forward copies to each member of the hearing panel. The presiding member of the hearing panel shall consult with the members prior to acting on the motion. The panel may act on the motion without requiring a response from bar counsel, and either:

1. Refuse the motion, or

2. Order a new hearing or such other relief as it deems appropriate.

No relief shall be granted without allowing bar counsel an opportunity to oppose the motion in writing, except that the board may, in its discretion, delay entry of its order until such opposition is received. If no relief is granted, the board shall enter its order disposing of the case.

K. Imposition of terms. In any case where terms are included in the disposition, the board shall specify the time period within which compliance shall be completed and the alternative disposition in the event the terms are not complied with. Bar counsel shall be responsible for monitoring compliance with terms and reporting any noncompliance to the board. If the respondent fails to comply with the terms within the stated time period, as determined by the board, the alternative disposition shall be imposed.

Whenever it appears that the respondent has not complied with the terms imposed, bar counsel shall serve notice on the respondent requiring him to show cause why the alternative disposition should not be imposed. Such show cause proceeding shall be set for hearing before the board at its next available hearing date. The burden of proof shall be on the respondent to show by clear and convincing evidence that he has complied with the terms imposed.

PART III. APPEAL OF A DISTRICT COMMITTEE DETERMINATION.

§ 3.1. Placing matter on docket for review.

Upon receipt of notice from the Clerk of the Disciplinary System that the respondent has timely filed an appeal from a district committee determination, the board shall place such matter on its docket for review.

§ 3.2. The record.

The record shall be prepared by the chairman of the district committee from which the appeal was taken and shall be filed with the Clerk of the Disciplinary System. The record shall consist of notice of the district committee hearing; the transcript of testimony (if any); and exhibits received or refused by the district committee; the district committee determination; and all briefs, memoranda, and other papers filed with the district committee by the respondent or the bar. Upon petition of the respondent, for good cause shown, the board may permit the record to be supplemented to prevent an injustice.

§ 3.3. Notice of filing of the record.

The Clerk of the Disciplinary System shall notify the respondent when the record of the proceeding before the district committee is received.

§ 3.4. Filing of briefs.

Briefs shall be filed as follows:

1. The respondent shall file an original and eight copies of an opening brief in the office of the Clerk of the Disciplinary System within 40 days after the filing of the record in such office.

2. The bar shall file an original and eight copies of its brief in the office of the Clerk of the Disciplinary System within 25 days after the filing of the opening brief.

3. The respondent may file an original and eight copies of a reply brief within 14 days after the filing of the bar's brief.

§ 3.5. Oral argument.

Proposed Regulations

Oral argument shall be granted unless waived by the respondent.

PART IV. HEARINGS FOLLOWING CRIMINAL CONVICTION.

§ 4.1. Suspension upon proof of conviction of crime.

Upon receipt of a certified copy of an order of any court of competent jurisdiction stating that an attorney has been found guilty of a crime, the chairman, or vice-chairman or other appropriate board member shall forthwith enter an order suspending the license of the attorney. The Clerk of the Disciplinary System shall then cause to be served upon the attorney by certified mail a copy of the proof of conviction, a copy of the board's suspension order, and a notice fixing the time and place of hearing to determine whether the license of the attorney should be revoked or further suspended, which hearing shall not be less than 14, nor more than 30, days after the date of the board's suspension order.

§ 4.2. Continuance of hearing.

Upon receipt of a written request from the attorney that the matter be continued pending appeal, the board shall continue the matter; otherwise the hearing shall be set not less than 14, nor more than 30, days after the date of the board's suspension order.

§ 4.3. Final disposition.

A. Reversal of criminal conviction. Upon receipt of proof by the attorney that the conviction has been reversed, the suspension of the attorney's license shall automatically be terminated and an order to such effect shall be forthwith entered by the board.

B. Hearing procedures. Insofar as applicable, the procedures set forth in § 1.3 and § 2.4 G through 2.4 J shall govern the hearing under this part.

C. Copies of notices, orders, responses or answers by the attorney. The Clerk of the Disciplinary System shall furnish to the board members designated for the matter copies of the proof of conviction, proof that the conviction is final, the order of the board suspending the attorney, notice of hearing, any notice of any continuance and any matters filed by the attorney. The attorney shall furnish to the Clerk of the Disciplinary System an original and eight copies of any communications or other materials he may file with the board in such matter.

D. Conviction becoming final. If, at the time fixed for hearing, the attorney fails to appear, or if the board after hearing shall find that the conviction has become final, the board shall forthwith enter an order revoking the license of the attorney, a copy of which shall be forthwith served upon the attorney by certified mail by the Clerk of the Disciplinary System.

PART V. DISABILITY HEARINGS.

§ 5.1. Suspension upon proof of prior adjudication of or hospitalization for disability.

Upon receipt of a notice from the Clerk of the Disciplinary System with supporting documentary evidence that (i) an attorney has been adjudicated by a court of competent jurisdiction to suffer from disability, or (ii) the attorney has been voluntarily or involuntarily admitted to a hospital (as defined in § 37.1-1 of the Code of Virginia) for treatment of any addiction, inebriety, insanity or mental illness, the chairman or vice chairman or other appropriate board member shall forthwith enter an order suspending the license of the attorney and shall forthwith cause to be served upon the attorney by certified mail a copy of the board's order suspending his license.

§ 5.2. Suspension in absence of prior adjudication of or hospitalization for disability.

A. Upon receipt of notice or evidence that an attorney is or may be suffering from disability and in the absence of prior adjudication of or hospitalization for disability, the bar counsel shall cause an investigation to be made to determine whether there is probable cause to believe that the disability exists.

B. If the bar counsel determines that there is probable cause to believe that the attorney suffers disability, he shall promptly notify the board which shall promptly hold a hearing substantially in accordance with the procedures established for notice and hearings in proceedings relating to misconduct.

C. The following additional provisions apply to such notice and hearings:

1. Guardian ad litem. The notice of any hearing to determine whether an attorney suffers from disability shall request the attorney to advise the board whether he has retained counsel to represent him at the hearing. Unless counsel for the attorney enters an appearance with the board within 10 days of the date of the notice, the board shall appoint a guardian ad litem to represent the attorney at the hearing.

2. Psychiatric examination. Following a hearing and prior to a decision the board may by order require the attorney to undergo a psychiatric examination by a psychiatrist selected by the board. A written report of the results of such examination, along with written reports from any other psychiatrists who have examined the attorney, may be considered as evidence by the board. Such reports shall be filed with the Clerk of the Disciplinary System.

§ 5.3. Termination of suspension.

A. Upon receipt of documentary evidence that a court of

competent jurisdiction has adjudicated that the attorney's disability has terminated, the board shall promptly enter an order terminating the suspension of the attorney's license.

B. In all other cases the board shall hold a hearing on the termination of the disability promptly upon receipt of a request from the attorney. Such hearing shall be conducted substantially in accordance with the procedures established for hearings related to misconduct, and subject to the following additional procedures:

1. The burden of proving the termination of disability shall be on the attorney;
2. The board may appoint a guardian ad litem for any attorney not represented by counsel in such proceedings;
3. Evidence generally will be limited to changes in the attorney's mental condition subsequent to the original determination of disability; and
4. The board may, either prior or subsequent to hearing, require the attorney to undergo a psychiatric examination by a psychiatrist selected by the board. A written report of the results of such examination, along with written reports from any other psychiatrists who have examined the attorney, may be considered as evidence by the board.

PART VI. HEARINGS FOLLOWING DISBARMENT OR SUSPENSION IN ANOTHER JURISDICTION.

§ 6.1. Suspension upon proof of suspension or disbarment in another jurisdiction.

Upon receipt of a notice from the Clerk of the Disciplinary System that an order in another jurisdiction suspending or revoking the license of any attorney has become final, the chairman, vice chairman or other board member shall forthwith enter an order suspending the license of the attorney and shall forthwith cause to be served upon the attorney by certified mail a copy of the proof of such suspension or disbarment, a copy of the board's order suspending the license of the attorney, a notice fixing a time and place for a hearing to determine what action the board should take, and a statement that the purpose of the hearing is to furnish to the attorney an opportunity to show cause why the same discipline that was imposed in the other jurisdiction should not be imposed by the board.

§ 6.2. Continuance of hearing.

Unless continued by the board for good cause, the hearing shall be set not less than 21, nor more than 30, days after the date of the board's suspension order.

§ 6.3. Final disposition.

A. The Clerk of the Disciplinary System shall furnish to the board members designated for the matter copies of the proof of suspension or revocation of the attorney's license, the board's order suspending the license of the attorney, the notice of hearing, any notice of continuance of the hearing, and any materials filed by the attorney. The attorney shall furnish to the Clerk of the Disciplinary System an original and eight copies of any communications or other materials he may file with the board in reference to such matter.

B. Insofar as applicable, the procedures set forth in § 1.3 and § 2.4 G through 2.4 J shall govern the hearing under this part.

PART VII. REINSTATEMENT HEARINGS.

§ 7.1. Reinstatement hearings.

Upon receipt of a petition for reinstatement from the Clerk of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall advise the petitioner in writing of receipt of the petition and will arrange a suitable hearing date with the petitioner and bar counsel.

1. Appointment and quorum. A quorum shall be five members of the board.

2. Powers of the board in reinstatement cases. The board is empowered to hold a hearing and make its recommendation either to approve or disapprove the petition to the Supreme Court.

3. Hearing date. The date of the hearing shall be determined by the chairman. The Clerk of the Disciplinary System shall cause to be filed eight copies of the transcript, exhibits, pleadings and orders from the original disciplinary proceeding to the extent same are available upon the scheduling of a hearing date.

4. Investigation. The Office of Bar Counsel shall conduct such investigation and make such inquiry as it deems appropriate.

5. Notice. Reasonable notice of filing of the petition and the date of the hearing shall be mailed by the Clerk of the Disciplinary System to all members of the bar of the circuit or circuits in which the petitioner maintains his principal office at the time of his revocation or suspension. Such notice shall also be mailed by the Clerk of the Disciplinary System to the members of the district committee who heard the original complaint, the complaining witness or witnesses, and such other individuals as the Clerk of the Disciplinary System deems appropriate.

6. Grounds of reinstatement. On written request by bar counsel, petitioner shall file with the Clerk of the Disciplinary System within 21 days after receipt of the request an original and eight copies of a bill of

Proposed Regulations

particulars setting forth his grounds for reinstatement.

7. Hearing.

a. On the date set for the hearing, the petitioner shall have the right to representation by counsel, to examine and cross-examine witnesses and to present evidence in his own behalf. Evidence in opposition to the petition may be heard by the board. The testimony shall be taken and preserved together with all exhibits (or copies thereof) received in evidence. The testimony will be transcribed.

b. Bar counsel shall appear and represent the Commonwealth and its citizens. Legal advice to the board, if required, shall be rendered by the Office of the Attorney General.

8. Character witnesses. Character witnesses supporting the petitioner will be heard, the number thereof to be limited to five. In addition, the board will consider any letters as to the character of the petitioner.

9. Determination by the board. The board will within 60 days of the receipt of the transcript forward the record and its recommendation to the Supreme Court with a copy to the petitioner and bar counsel.

PART VIII.

REVIEW OF COSTS IMPOSED; REVIEW OF NOTICES.

§ 8.1. Review of costs imposed.

Whenever a respondent disagrees with the costs assessed by the Clerk of the Disciplinary System pursuant to the Rules of Court, Part Six, Section IV, Paragraph 13(K)(10), the respondent may petition the board for review. Such petition and eight copies must be filed within 10 days of the date on which the notice assessing costs was mailed to the respondent by the Clerk of the Disciplinary System. The board shall thereupon review the costs assessed to determine if they were computed accurately or if immediate payment would constitute a hardship on the respondent. There shall be no oral hearing of the respondent's petition.

Upon review of the respondent's petition, the board shall enter an order confirming the costs assessed by the Clerk of the Disciplinary System, or assessing such other costs as the board deems proper. The board shall also specify the date by which the costs must be paid to the Clerk of the Disciplinary System.

§ 8.2. Review of notices.

Whenever it appears that an attorney has not given the notice of suspension or revocation, or has failed to attend to the orderly disposition of client matters as required by the Rules of Court, Part 6, Section IV, Paragraph 13(K)(1), but such attorney asserts that the appropriate notice was given, the Clerk of the Disciplinary System shall set such

controversy for hearing. The attorney shall bear the burden of proving that he did give notice of the disbarment or suspension to all clients for whom the attorney was handling matters and to all opposing attorneys and the presiding judges in then pending litigation. The attorney must also show that efforts expended in the disposition of his client matters were appropriate under the circumstances.

Upon review of the evidence presented, the board will announce its findings of fact in an appropriate order.

* * * * *

Title of Regulation: VR 167-01-601. Mandatory Continuing Legal Education Regulation.

Statutory Authority: § 54.1-3910 of the Code of Virginia; Part 6, § IV, Paragraph 17 of Rules of Virginia Supreme Court.

Summary:

The proposed regulation outlines reporting requirements for maintaining active membership in the Virginia State Bar, and sets forth the standards and procedures for course approval and accreditation of sponsors. Computation examples are provided to aid in the determination of credits. Additionally, the regulation delineates restoration/reinstatement procedures and sets forth exemption and waiver possibilities.

VR 167-01-601. Mandatory Continuing Legal Education Regulation.

§ 1. Definitions.

As used in this regulation, the following definitions shall apply:

"Accredited sponsor" means an organization whose entire continuing legal education program has been accredited by the board, pursuant to § 5 of this regulation.

"Active member," as defined by Paragraph 3(a) of Section IV, Part Six, Rules of Virginia Supreme Court, means a person who is admitted to practice law in the courts of this Commonwealth and who is engaged in the practice of law, either full time or part time, salaried or nonsalaried.

"Approved course" means a course expressly approved by the board for the relevant reporting period or a course offered by an accredited sponsor during the reporting period for which the sponsor is accredited.

"Board" means the Virginia State Bar Mandatory Continuing Legal Education Board established by Paragraph B of the Rule.

"Course" or "program" means a discrete continuing legal education offering, regardless of length or daily schedule.

"Course or program offered in-house" means one sponsored by a single private law firm, a single corporate law department or a single federal, state or local governmental agency or military branch for lawyers who are members or employees of the firm, department, agency or branch.

"Credit hours," "hours," "credits," or "hours credit" means the units used for measuring completion of mandatory continuing legal education as required by the Rule.

"Ethics credits" mean credit hours which apply toward mandatory continuing legal education in the area of legal ethics or professionalism as required by the Rule.

"Faculty member" means a person qualified by practical or academic experiences to teach the subject he covers.

"Limited intellectual property admission member" means an attorney admitted pursuant to § 54.1-3901 of the Code of Virginia for the practice of patent, trademark, copyright and unfair competition causes only.

"Member" as defined by Paragraph 2 of Section IV, Part Six, Rules of the Virginia Supreme Court, means all attorneys at law in this Commonwealth.

"Newly-admitted member" means a person first admitted to practice during the current reporting period.

"Panel(s)" means a committee or committees organized by the board for the purpose of expeditiously considering and deciding matters arising under the Rule and this regulation.

"Program sponsor" or "sponsor" means any person or entity presenting or offering to present one or more continuing legal education programs.

"Qualified ethics" or "professionalism component" means a clearly identified segment of a course or program which meets the requirements of § 3 D of this regulation and which segment is devoted to one or more topics embraced in recognized formulations of rules of professional conduct or codes of professional responsibility applicable to attorneys. Such a segment must be appropriately described or entitled in course materials and must have a defined duration in the course or program schedule.

"Reporting period" means a period of one year beginning on July 1 of one year and ending on June 30 of the next year.

"Rule" means the provisions of the Mandatory Continuing Legal Education Rule established by Paragraph 17 of Section IV, Part Six, Rules of Virginia Supreme Court.

"Specially approved course or program" means a course which does not meet the standards of § 3 B and C of this regulation but which, because of its significant value to the practice of a member who has sought approval, has been approved by the board for such member. As to such member, the term "approved course" includes a specially approved course or program.

§ 2. Requirements and computations.

A. Each active member, other than a newly-admitted member or a member with a limited intellectual property admission as defined in § 1 of this regulation, shall complete, during each reporting period in which he is an active member for any part thereof, a minimum of 12 credit hours of approved continuing legal education courses, of which at least two hours shall be in the area of legal ethics or professionalism, by obtaining credit in the manner hereinafter provided, unless expressly exempted therefrom pursuant to the provisions of § 10 of this regulation.

B. Credit will be given to a member who personally attends an approved course and to a member who prepares written materials for an approved course and to a member who personally participates as an instructor for such course. Credit in the area of legal ethics or professionalism will be given a member who attends a course approved for credit in such area, and to a member who personally prepares materials for a qualified ethics or professionalism component of such course, and to a member who personally participates as an instructor for such a component.

C. Credits for attendance will be awarded on the basis of time spent in personal attendance at an approved course which meets the standards of this regulation. Credits for teaching will be awarded on the basis of time spent in personal participation as an instructor at an approved course. However, no credit will be awarded for teaching and preparation of a "specially approved course or program." Credit hours will be computed by calculating the total instructional minutes attended or taught for the course, rounded to the nearest half hour. Credit will not be given for time spent in meal or coffee breaks. Credit will not be given for keynote speeches or introductory remarks or time spent on any subject matter which is not directly related to instruction pertinent to that course.

EXAMPLES:

1. A member attends a one-day course or seminar with seven segments, each lasting 50 minutes. Two of the segments are in the area of legal ethics or professionalism under the standards set forth in § 3 of this regulation. Credit hours will be computed by calculating the total instructional minutes rounded to the nearest half hour. Since there are 350 total instructional minutes (five hours, 50 minutes) the board will round this time to the nearest half hour and the member will receive six hours credit, not

Proposed Regulations

seven. Of such six hours credit, one and one-half hours (100 minutes rounded to the nearest half hour) will be in the area of legal ethics or professionalism.

2. A member attends a course or program which is presented all day Friday and on Saturday morning. The member attends a three hour, 15 minute Friday morning session; a two hour, 15 minute Friday afternoon session; and a three hour, 10 minute Saturday morning session. Since the total instruction time is eight hours and 40 minutes for the two-day program, the board will round this time to the nearest half hour and the member will receive eight and one-half hours of credit.

3. A member attends a course or program which is advertised as having been "approved by the Virginia Mandatory Continuing Legal Education Board" for six credit hours, of which one and one-half apply in the area of legal ethics or professionalism. No further computation need be made by the member if he attends the entire course or program.

4. A member personally teaches any of the courses in the previous examples. The teaching member will receive credit hours for teaching time computed in the same fashion as the credit hours are computed for the attending member.

5. A member is a teacher at a one-day course or program with seven segments, each lasting 50 minutes. Application forms are filed certifying that the member taught one segment and also attended one segment. The member did not attend or teach the other five segments. Since the member attended or taught 100 total instructional minutes for the course, the board will round this time to the nearest half hour and the member will receive one and one-half hours of credit. The member does not receive one credit hour for 50 minutes teaching plus one credit hour for the other 50 minutes attending.

D. Credits for preparation will be awarded on the basis of time spent by the member (i) in preparing written materials which meet the standards of this regulation for use in the presentation of an approved course; and (ii) in preparing a personal presentation as an instructor for an approved course. The member of preparation minutes eligible for credit shall not exceed four times the number of instructional minutes in the presentation which is being prepared. Credit hours will be computed by calculating the total minutes spent in preparation for the course, rounded to the nearest half hour. In no event shall more than eight hours of credit be awarded for preparing a single course or program.

EXAMPLES:

1. A member prepares thorough, high-quality instructional written materials which appropriately cover the subject matter for an approved program

which lasts 120 minutes. The member certifies that eight hours or more was spent preparing the written materials. The board will award eight credit hours for preparation time. This does not exceed the maximum limit of four times the presentation time of the program and is consistent with the maximum limit of eight hours of credit for preparing a single course or program.

2. Same as example 1 above except the member also taught the entire program and certifies that an additional eight hours or more was spent preparing for the presentation as an instructor. This is a total preparation time of 16 hours. The board will still award eight credit hours for preparation time because this is the maximum limit of four times the presentation time and also because this is the maximum limit of credit for preparing a single course or program. However, the member will be awarded two credit hours for teaching time and will therefore receive a total of 10 credit hours for the activities in preparing and teaching the program.

3. A member teaches at a course approved for five credits including one ethics credit. The member certifies that he taught the morning ethics segment of 20 minutes. The member further certifies that one hour and 20 minutes was spent preparing for the presentation. Since the member taught 20 minutes the board will round this time to one half hour teaching credit. Eighty minutes (four times the presentation time) of the member's preparation time is also eligible for credit. The board will round this time to the nearest half hour and the member will receive one and one-half hours of preparation credit. The member will therefore receive a total of two hours CLE credit including two hours ethics credit for preparing the ethics segment.

E. A one-year carryover of credit hours will be permitted, so that accrued credit hours in excess of one year's requirement may be carried forward to meet the requirement of the following year. From the 1990-91 reporting period an active member may carry forward a maximum of 10 credit hours toward the 1991-92 requirement, none of which may be counted toward the two hours required in the area of legal ethics or professionalism. Thereafter, a member may carry forward a maximum of 12 credit hours, not more than two of which, if earned in the area of legal ethics or professionalism, may be counted toward credit hours required in such area.

F. A member shall not receive credit for any course attended in preparation for admission to practice law in any state, nor for attending the legal ethics course required by Paragraph 13.1 of the Rules of the Virginia Supreme Court, unless such course has been approved by the board pursuant to this regulation. A member shall not receive credit for teaching that is directed primarily to persons preparing for admission to practice law. Regular

Proposed Regulations

full-time, part-time and adjunct academic faculty shall not receive credit for teaching any law school courses (undergraduate or graduate) or bar review courses. A member attending law classes, for a purpose other than preparing for admission to practice law, may receive credit in accordance with the manner described in subsection C of this section.

§ 3. Standards for approval of programs.

A. A course is approved for credit if it has been specifically approved by the board or is presented by an accredited sponsor previously designated by the board under the provisions of § 5 of this regulation. A course is approved for credit in the area of legal ethics or professionalism if and to the extent specifically approved by the board. A course presented by an accredited sponsor is also approved for credit in the area of legal ethics or professionalism if and to the extent so represented by such sponsor.

B. The course must have significant intellectual or practical content. Its primary objective must be to increase the attendee's professional competence and skills as an attorney, and to improve the quality of legal services rendered to the public.

C. The course must pertain to a recognized legal subject or other subject matter which integrally relates to the practice of law, or to the professional responsibility or ethical obligations of the participants.

D. A course may be approved for credit in the area of legal ethics or professionalism only to the extent that the course constitutes or contains one or more qualified ethics or professionalism components as defined in § 1 of this regulation. A minimum scheduling of 30 minutes in the aggregate of one or more qualified ethics or professionalism components is required before an approved course can be approved for credit in the area of legal ethics or professionalism.

EXAMPLES:

1. A sponsor's application for approval of a one-day program comprising seven 50-minute segments states in relevant part "each speaker will devote ten minutes of allotted time to ethical considerations." The program does not contain a qualified ethics component and is not eligible for approval for credit in the area of legal ethics. The requirement that a qualified component be a "clearly defined segment" is not met. Such segment must be capable of identification on the schedule and have a defined beginning and end.

2. A sponsor's application for approval of a one-day program reveals in relevant part that the opening 30-minute morning segment is clearly identified as devoted to ethical considerations and that the concluding 20 minutes of the afternoon session is also clearly identified as devoted to ethical considerations.

Assuming that other requirements for course approval are met, the board will approve the program for one hour credit in the area of legal ethics or professionalism. (See § 2.)

E. Courses must be conducted in a setting physically suitable to the educational course or program. A suitable writing surface should be provided.

F. Thorough, high quality instructional written materials which appropriately cover the subject matter must be distributed to all attendees at or before the time the course is presented. A mere agenda or topical outline will not be sufficient.

G. Each course shall be presented by a faculty member or members qualified by academic or practical experience to teach the subjects covered.

H. An audio or video program presented in a group setting (at least two attorneys in attendance) lending itself to discussion and exchange of ideas among the attendees will be approved, whether or not faculty or moderators are present in person or by telephone, provided that the subjects, faculty qualifications and written materials comply with this regulation. No course will be approved that involves only self-study.

I. A program offered "in-house" will be approved by the board if it meets the standards of this regulation and if the approval procedures prescribed by this regulation are followed.

J. Participation in deliberative groups concerned with law reform, judicial administration, or regulation of the profession will not be approved for credit.

K. A course that does not meet the requirements of subsections B and C of this section may, on application of a member, be approved as a "specially approved course or program" for the applicant where the board is satisfied that the course has significant value to the applicant's practice. Thus, for example, in appropriate cases courses on engineering, accounting or medical topics may be approved for a particular member.

§ 4. Procedure for approval of programs.

A. A member or course sponsor desiring approval of a course or program shall submit to the board all information called for by the "Application for Approval of a Continuing Legal Education Course." The content of this application has been promulgated by the board and may be changed from time to time. A member seeking approval of a course as a "specially approved course or program" should include on the Application for Approval of a Continuing Legal Education Course, or as an attachment thereto, a statement of why the course has significant value to the member's practice. The board shall then determine whether or not the course or program satisfies the requirements of § 3. If the course or program

Proposed Regulations

is approved, the board also shall determine the number of hours credit to be awarded. The board shall notify the requesting member or sponsor of its decision within 60 days after receipt of the completed application. The board shall maintain and make available a list of all approved courses and programs for each reporting period. An approved course or program is accredited only for the reporting period for which it is approved. A "specially approved course or program" is accredited only for the member for whom approved.

B. The sponsor of an approved course or program should include in its brochures or course descriptions the information contained in the following illustrative statement: "This course or program has been approved by the Virginia Mandatory Continuing Legal Education Board for..... hours of credit, of which..... hours will also apply in the area of legal ethics or professionalism." An announcement is permissible only after the course or program has been specifically approved pursuant to an application submitted directly by the sponsor.

C. The sponsor of an approved course or program that has not yet been approved after application should announce: "Application for approval for this course or program is pending with the Virginia Mandatory Continuing Legal Education Board."

D. At each presentation of an approved course or program or one for which approval is pending, the sponsor shall make available copies of the board's Certification of Attendance at an Approved Course or Program for completion by attendees and the board's Certification of Teaching at an Approved Course or Program for completion by instructors and shall collect those executed and turned in. The content of these certifications has been promulgated by the board and may change from time to time. Within five days following the final presentation of the course, the sponsor shall submit to the board the forms turned in by the attendees and instructors.

E. In the instance of a course or program presented while an application for approval is pending, it will be the responsibility of the sponsor to notify each member in attendance, within 30 days after the course or program is presented, whether the course or program was approved and if so, the number of credit hours for which approved. If such course or program is not approved, then such attending member will not receive any credit hours for attendance. However, a member may seek approval in the manner specified in § 4 F.

F. Any member seeking credit after attending, or any sponsor seeking approval after presenting a course or program, shall submit to the board all information called for on the Application for Approval of a Continuing Legal Education Course. The board will then determine whether the program qualifies under this regulation and, if so, how many credit hours are approved. The board will promptly notify the applicant of its decision.

§ 5. Procedure for accreditation of sponsors.

A. Any sponsor may apply for approval of individual courses by complying with the criteria of § 3 of this regulation and the procedures of § 4.

B. If the board determines that a sponsor regularly provides a significant volume of continuing legal education courses, that these courses uniformly meet the approval criteria of § 3 of this regulation, and that the sponsor will maintain and submit the records directed by this regulation, the board may designate such a course provider as an "accredited sponsor" under the Rule. Such designation shall be effective for a period of no more than two years unless renewed.

C. A sponsor applying for status as an accredited sponsor shall submit to the board all information called for on the Application for Status as Accredited Sponsor of Continuing Legal Education.

D. An accredited sponsor shall be subject to and governed by the applicable provisions of the Rule and this regulation, including the quality standards of § 3 of this regulation and the record keeping and reporting requirements of this section. Accordingly, for example, an accredited sponsor may represent in its descriptive literature that a course or program generates credits in the area of legal ethics or professionalism only to the extent the course contains one or more qualified ethics components as provided in § 3 of this regulation.

E. The approval procedure of § 4 does not apply to accredited sponsors. An accredited sponsor must notify the board at least two weeks in advance of a program of the name, date, location and credit hours allowable for a particular course, including, where appropriate, credit hours in the area of legal ethics or professionalism. The board may request additional information regarding a course or program. The board will provide the sponsor with copies of the board's Certification of Attendance and Certification of Teaching for each course or program and the sponsor shall make available, collect and transmit such forms in accordance with the requirements of § 4 D.

F. The board may at any time reevaluate and revoke the status of an accredited sponsor. If the board finds there is a basis for revocation of the accreditation granted to an accredited sponsor, the board shall send notice by certified mail to that sponsor of the revocation within 30 days of the board's decision.

G. Law firms, professional corporations, and corporate law departments are not eligible to become accredited sponsors.

§ 6. Delegation.

To facilitate the orderly and prompt administration of the Rule and this regulation, and to expedite the processes of course approval, sponsor accreditation and the

interpretation of this regulation, the board may organize itself into panels for the purpose of considering and deciding matters arising under the Rule and under this regulation.

§ 7. Board's determination and review.

A. Pursuant to directions established by the board, a panel shall, in response to written requests for approval of courses or programs or for awarding of credit for the attendance at or teaching in approved courses, waivers, extensions of time deadlines and interpretations of this regulation, make a written response describing the action taken. A panel may seek a determination of the board before taking action. At each meeting of the board, the panel shall report on all determinations made since the last meeting of the board.

B. An aggrieved party may file with the board a written appeal of an adverse decision by a panel within 30 days after notice of the adverse decision has been mailed to him. No form of appeal is required but the aggrieved party shall state in narrative form the action complained of and all of the reasons he believes the decision of the panel is erroneous.

C. The board shall review any adverse determination of a panel which has been appealed to it pursuant to § 7 B of this regulation. The aggrieved party may present information to the board in writing or in person, and at such time and place as the board may direct. If the board finds that a panel has incorrectly interpreted the facts, the provisions of the Rule or the provisions of this regulation, it may take such action as may be appropriate. The board shall advise the aggrieved party of its findings and any action taken.

D. Pursuant to Paragraph 17 of Section IV, Part Six, Rules of the Virginia Supreme Court, the Virginia State Bar may from time to time establish fees for processing application, approving courses and accrediting sponsors, the remittance of any of these may be required before action is taken by the board.

E. All decisions of the board under this regulation shall be final and binding on all persons affected thereby and no appeal or other relief therefrom shall lie, except as specifically provided in § 9.

§ 8. Reporting of certification procedures.

A. Where a sponsor makes copies of the Certification of Attendance and the Certification of Teaching available at a course or program, each active member who wishes credit may complete the form and turn it in to the sponsor or its representative.

B. Where a member attends a course or program, and for any reason the member does not return to a sponsor the Certification of Attendance or the Certification of Teaching on the day of a course or program, the member

who wishes the board to record credit may obtain a copy of the form from the board or a sponsor, complete it and forward it to the board.

C. Each active member shall submit on or before June 30 of each reporting period Certification of Attendance or Certification of Teaching at an approved course(s) for the minimum educational requirement.

D. Following the end of each reporting period, the board shall advise each active member of his status respecting completion of the annual educational requirement. Such notice shall indicate the hours forwarded from the previous year, the hours earned during the reporting period and the total. This notice shall be entitled the "MCLE End of Year Report."

E. If the active member accepts the MCLE End of Year Report as accurately reflecting his credit hours for the period, including any teaching credits or carryover hours from the previous reporting period, and the form lists 12.0 or more CLE credits of which 2.0 or more are ethics or professionalism credits, the member does not need to file his form with the MCLE Board. If a member believes that the information reflected on the board's records is in error or incomplete, then the corrected MCLE End of Year Report must be filed and received by the MCLE office no later than July 31. If the MCLE End of Year Report lists less than 12.0 CLE credits or less than 2.0 ethics credits, then an amended MCLE End of Year Report must be filed and received by the MCLE office no later than July 31.

F. Certifications of Attendance at an Approved Course or Program filed for credit for the previous reporting period after June 30 are accepted for credit only when accompanied by the MCLE End of Year Report.

G. After July 31, a member who wishes to receive credit for credit hours earned during the previous reporting period may forward to the board a certification on the appropriate forms together with remittance of the late filing fee. Any credits approved shall be recorded for the previous reporting period and shall be eligible for the one year carryover into the current reporting period in the same fashion as other credits. A member may not apply for credits earned earlier than the next preceding reporting period.

§ 9. Noncompliance.

A. An active member who has neither complied with the educational and reporting requirements of the Rule and this regulation, nor obtained a waiver or extension for good cause shown by July 31 of each reporting period, shall be subject to suspension of such active member's license to practice law as is provided by Paragraph 13.2 of Section IV, Part Six, Rules of Virginia Supreme Court.

B. Pursuant to Paragraph 13.2 of Section IV, Part Six, Rules of Virginia Supreme Court, whenever the board

Proposed Regulations

determines that an active member has neither completed the mandatory continuing legal education requirements of the Rule and filed the certification required by § 8 of this regulation nor obtained a waiver or extension in accordance with §§ 12 and 13 of this regulation, the member shall be deemed to be delinquent.

§ 10. Restoration and reinstatement.

A. A delinquent member may be restored to good standing only following (i) his certifying the the Secretary-Treasurer of the Virginia State Bar of compliance with the requirements of the Rule in the manner provided by § 8 of this regulation and a determination by the board that he has completed the mandatory continuing legal education requirements of the Rule and paying any required fees, or (ii) the obtaining of a waiver or extension in accordance with §§ 12 and 13 of this regulation.

B. A delinquent member who is suspended pursuant to Paragraph 13.2 shall not further engage in the active practice of law until he has been reinstated. A suspended member may be reinstated only after paying any required fees and certifying compliance with the Rule as provided in Paragraph 13.2 and this regulation.

C. Where a default in compliance is cured by earning credit hours in a subsequent reporting period, credit hours applied to correct the default shall not be applied to satisfy the requirements of any other period.

D. A member suspended for an entire reporting period must show attendance at 12.0 CLE credit hours including 2.0 ethics credits earned within the previous 12 months. This member cannot rely on credits earned through carryover in the previous reporting period.

§ 11. Exemptions; newly admitted members; limited patent, trademark, copyright and unfair competition admissions.

A. The Rule exempts from the certification requirement two specific categories of active members: a newly admitted member or a person admitted to practice solely pursuant to the provisions of § 54.1-3901 (limited patent, trademark, copyright and unfair competition practice) of the Code of Virginia.

B. A newly admitted member is exempt from filing a certification for the reporting period in which he is first admitted to practice in the Commonwealth. A newly admitted member will not receive credit under this regulation for attending or teaching any course prior to his admission to the Virginia State Bar.

EXAMPLE: Attorney A is first admitted to practice law in October 1986. Attorney A is not required to comply with the minimum continuing legal education requirement of the Rule and this regulation by taking or teaching approved courses until on and after July 1, 1987. Attorney A also shall not be required to file

the certification required by § 8 of this regulation until June 30, 1988. If Attorney A attends or teaches approved courses between October 1986 and July 1, 1987, he may "carry over" to the next reporting period credits in accordance with § 2 of this regulation. Attorney A, beginning on July 1, 1987, will be subject to said requirement as long as he is an active member of the Virginia State Bar.

C. An active member admitted to practice only under the provisions of § 54.1-3901 of the Code of Virginia, which limits a member to the practice of patent, trademark, copyright and unfair competition causes, is also exempt from the requirements of the rule.

§ 12. Waivers.

A. A waiver may be sought by filing with the board a request, together with any appropriate or required supporting material or documentation (e.g. doctors' letters, medical records). The filing of any waiver request does not toll the running of any time limit set forth in this regulation or the Rule regarding suspension.

B. A waiver shall be valid for a single reporting period, unless renewed or extended by the board. A waiver will be granted only for good cause.

C. If the waiver is based on medical reason, condition, illness or hospitalization, then the application for waiver shall be a completed form entitled: "Request for Waiver Based on Hospitalization, Illness or Medical Reason." It must be completed and signed by the admitting, family or attending health care provider, and it must set forth the medical condition, hospitalization or illness which prevents the member from completing the required MCLE courses for the period for which the waiver is being requested and have attached to it any appropriate supporting material or documentation.

D. If the waiver is based on nonmedical reasons, then the grounds should be stated in a letter to the board and any appropriate supporting material or documentation should be attached.

E. All waiver requests should be promptly submitted when the grounds for the waiver request become known to the applicant or applicant's representative. Failure to file a waiver request in a timely manner may be considered by the board in determining whether to grant a waiver. A prudent lawyer will use the carryover of credits provision of the Rule to avoid most nonmedical based waiver requests.

§ 13. Extensions.

A. An extension may be sought by filing with the board a request, together with any appropriate or required supporting material or documentation (e.g. doctors' letters, medical records). The filing of an extension request does not toll the running of any time limit set forth in these

regulations or the Rule regarding suspension.

B. An extension shall be valid for the specific time period granted by the board unless renewed or extended. An extension will be granted only for good cause.

C. If the extension is based on medical reason, condition, illness or hospitalization, then the application for extension shall be a completed form entitled: "Request for an Extension Based on Hospitalization, Illness or Medical Reason." It must be completed and signed by the admitting, family or attending health care provider, and it must set forth the medical condition, hospitalization or illness which prevents the member from completing the required MCLE courses for the period for which an extension is being requested and have attached to it any appropriate supporting material or documentation.

D. If the extension is based on nonmedical reasons, then the grounds should be stated in a letter to the board and any appropriate supporting material or documentation should be attached.

E. All extension requests should be promptly submitted when the grounds for the extension request become known to the applicant or the applicant's representative. Failure to file an extension request in a timely manner may be considered by the board in determining whether to grant an extension. A prudent lawyer will use the carryover of credits provision of the Rule to avoid most nonmedical based extension requests.

§ 14. Representations by members.

A member who makes a materially false statement in any document filed with the board shall be subject to appropriate disciplinary action.

Virginia MCLE Board
Virginia State Bar
707 East Main Street, 15th Floor
Richmond, VA 23219-2803
(804) 775-0577

CERTIFICATION OF ATTENDANCE (FORM 2)

To ensure proper credit, pursuant to Paragraph 17B, C and D of Section IV, Part Six, Rules of the Supreme Court of Virginia, please list your bar ID number, social security number and print full name and address. The information provided will be available for inspection by the public under the Freedom of Information Act.

Check if new address

Member Name: _____ VSB Member Number: _____

Official Address of Record: _____ Social Security Number: _____
(optional)

Daytime Phone: () _____

Zip Code grid: [][][][]-[][][][]

Course ID Number: _____

Sponsor: _____

Course/Program Title: _____

CLE (Ethics) Credits: ()

CERTIFICATION

Date(s) Attended: _____ Location(s): _____

() I attended the full program. [members will receive the CLE (Ethics) credits shown above.]

() I attended a total of _____ (hrs/mins) of CLE, of which _____ (hrs/mins) were in Ethics.

NOTE: Credit is awarded for actual time in attendance rounded to the nearest half hour.

Date

Signature

A materially false statement shall be subject to appropriate disciplinary action.

A \$50 Late Filing Fee Will Be Charged For All Forms Received After July 31.

MAY BE PHOTOCOPIED

Virginia MCLE Board
Virginia State Bar
707 East Main Street, 15th Floor
Richmond, VA 23219-2803
(804) 775-0577

CERTIFICATION OF ATTENDANCE (FORM 3)

To ensure proper credit, pursuant to Paragraph 17B, C and D of Section IV, Part Six, Rules of the Supreme Court of Virginia, please list your bar ID number, social security number and print full name and address. The information provided will be available for inspection by the public under the Freedom of Information Act.

Check if new address

Member Name: _____ VSB Member Number: _____

Official Address of Record: _____ Social Security Number: _____
(optional)

Daytime Phone: () _____

Zip Code grid: [][][][]-[][][][]

Course ID Number: _____

Sponsor: _____

Course/Program Title: _____

CLE (Ethics) Credits: ()

CERTIFICATION

Date(s) of Teaching: _____ Location(s): _____

() My teaching segment was _____ (hrs/mins) of CLE, of which _____ (hrs/mins) were in Ethics.

() In addition, I attended a total of _____ (hrs/mins) of CLE, of which _____ (hrs/mins) were in Ethics.

() I spent _____ hours preparing for teaching my segment of the course.

NOTE: No more than four (4) hours of preparation credit may be claimed per one hour of teaching time, and no more than eight (8) hours total for any one course.

Date

Signature

A materially false statement shall be subject to appropriate disciplinary action.

A \$50 Late Filing Fee Will Be Charged For All Forms Received After July 31.

MAY BE PHOTOCOPIED

Virginia MCLE Board
Virginia State Bar
707 East Main Street, Suite 1500
Richmond, VA 23219-2803
(804) 775-0577

BOARD USE ONLY	
Course ID# _____	Letter# _____
CLE hours _____	Deferral Date / /
Ethics hours _____	Denial Date / /

APPLICATION FOR CLE COURSE APPROVAL (FORM 4)

Check if new address

1. Applicant: VSB member # _____ Course Sponsor: _____
 Name: _____ Sponsor Representative* _____
 Address: _____ Address: _____

 Daytime phone: () _____ Phone: () _____

2. Title of Program: _____

3. Total CLE hours: _____ including () Ethics hours
 To qualify for credit Ethics components must be clearly identified on the course schedule and total a minimum of 30 minutes. A sample of the Ethics material distributed must be attached.

4. Check all that apply: Live _____ Video _____ Audio _____ Satellite _____ Interactive video _____
 In-house _____ Target audience: Clients _____ Attorneys _____

5. Date(s) _____
 Location(s) _____

6. Course Registration Fee: \$ _____

7. REQUIRED ATTACHMENTS:

- a. Program Schedule or agenda
- b. Faculty name(s) and credential(s)
- c. Summary of course materials (table of contents and representative sample)

8. Description of materials: Total pages _____ Bound _____ Looseleaf _____ Outline _____
 Materials are distributed: Before program _____ At program _____ Other _____

9. Physical Facilities: Conference room _____ Classroom _____ Theater style _____ Writing surface _____

10. Number of attorneys present or anticipated: _____ Number of nonattorneys: _____

11. SPONSOR agrees to provide Certification of Attendance forms (Form #2) and Certification of Teaching forms (Form #3) to Virginia attorneys attending or teaching the program. The sponsor agrees to collect and send those forms to the Virginia MCLE Board immediately following the program. (Not Applicable to Individual Members.)

12. BAR MEMBERS: If the program does not cover a recognized legal topic, attach a statement of how this course relates to your practice.

13. BAR MEMBERS: I certify that I attended _____ CLE hours, including () Ethics hours, of the above-named course.

*SPONSORS MUST FILE A \$25 FEE WITH THIS APPLICATION.

FEE PAID: / / Signature _____
 (must be a VSB Member or Sponsor Representative)

MAY BE PHOTOCOPIED

A materially false statement shall be subject to appropriate disciplinary action.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: ~~VR 270-02-0009~~ VR 270-01-0009 .
Regulations Governing Literary Loan Applications in Virginia.

Statutory Authority: Article VIII, § 8 of the Constitution of Virginia; §§ 22.1-140 and 22.1-142 et seq. of the Code of Virginia.

Effective Date: March 8, 1995.

Summary:

The amendments provide more funds to local school divisions for school construction. Previously, the regulations only provided \$2,500,000 for Literary Fund applications. Based on rising cost, \$5,000,000 will be approved in accordance with § 22.1-147 of the Code of Virginia. In addition, the regulations have been amended in accordance with § 22.1-140 of the Code of Virginia, which requires that plans and specifications be certified by the division superintendent and are accompanied by a statement by an architect or professional engineer. This certification replaces the previous approval process in place by the Department of Education. Also, the regulations have been amended in accordance with § 22.1-146 of the Code of Virginia, which allows literary funds to be used to refinance or redeem long-term debt under certain conditions. Further, the regulations have been amended to incorporate changes which were required by the 1989 and 1990 sessions of the General Assembly through Appropriation Act provisions. The required changes increased the ceiling on indebtedness to the fund, increased consolidation incentives, and provided priority funding for projects resulting from consolidation of school divisions. The Board of Education adopted the required changes on July 26, 1990. However, they were never published in *The Virginia Register of Regulations*.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from James E. Laws, Jr., Department of Education, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2540. There may be a charge for copies.

VR 270-01-0009. Regulations Governing Literary Loan Applications in Virginia.

PART I. POLICY.

§ 1.1. *Policy.*

It is the policy of the Board of Education to assist localities in borrowing from the Literary Fund to the greatest extent feasible, taking into consideration, the size of the Literary Fund, the availability to school divisions of alternative financing, the number and repayment ability of school divisions desiring to borrow from the Literary Fund, and the sense of the General Assembly for the administration and equitable distribution of the Literary Fund.

PART II. DEFINITIONS.

§ 2.1. *Definitions.*

The following words and terms, when used in these regulations, shall have the following meaning:

"*Approved Application List*" means the list maintained by the Department of Education of those Literary Loan applications which initially have been approved as to form by the Board of Education but have not been placed on the "Waiting List."

"*Board*" means the State Board of Education.

"*Department*" means the State Department of Education.

"*Project*" means capital construction for the purpose of erecting, altering, or enlarging a school building in a public school division of Virginia, or a regional center operating under a Board of Control as defined by board regulations.

"*Waiting List*" means the list maintained by the department of those Literary Loan applications which the board has placed on the Waiting List of loans anticipating the release of loan funds from the Literary Fund.

PART III. APPLICATION APPROVAL.

§ 3.1. *Application form.*

A school division applying for a Literary Loan shall meet the statutory requirements for such a loan as set

forth in §§ 22.1-142 through 22.1-161 of the Code of Virginia and the Appropriations Act. The application shall be submitted to the department on Form V.A. 005, completed, signed and sealed by the appropriate local officials and examining attorney certifying to the information contained in the application.

§ 3.2. Application review.

After examination and review of the contents of the application by the staff of the department and review of the application and the certifications by the Office of the Attorney General, the department shall recommend to the board the approval of those applications which are in proper form for further consideration by the board and for placement on the Approved Application List.

§ 3.3. Application approval.

Upon approval of a Literary Fund loan application, a Memorandum of Lien form, properly executed, and recorded in the appropriate circuit court is to be returned to the department for recordation, after which it will be forwarded to the State Treasurer for record keeping. It is recognized that the lien is not effective until the Board of Education approves the initial release/commitment of funds against the project. Section 22.1-157 of the Code of Virginia provides that no recordation tax shall be assessable.

§ 3.4. Nonapproval of application.

Applications for Literary Fund loans shall not be approved by the board if the project already has been bid prior to receipt of the application in the department, except in the case of a documented emergency.

PART IV. APPROVED APPLICATION LIST.

§ 4.1. Placement on list.

The board shall place applications on the Approved Application List upon the recommendation of the department made by the Superintendent of Public Instruction or his designee.

§ 4.2. Qualification for placement.

For applications on the Approved Application List to qualify for placement on the Waiting List, school divisions shall submit ~~architectural and engineering plans to the department for review and approval by the department a copy of the plans and specifications with a letter of approval by the division superintendent, accompanied with a statement by an architect or professional engineer licensed by the Virginia Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects that such plans and specifications are, to the best of his knowledge and belief, in compliance with the regulations of the Board of Education and the [Virginia] Uniform [~~

~~Statewide] Building Code .~~

§ 4.3. Upon notification that plans submitted under § 4.2 have been approved by the department, school divisions on the Approved Application List must request in writing to be placed on the Waiting List.

§ 4.4. 4.3. Removal from list.

Except as provided in § 10.2, Applications which remain on the Approved Application List for three years shall be removed from the list. Localities shall be notified at the end of the second year of the three-year cancellation policy.

PART V. RANGE AND DURATION OF LOANS.

§ 5.1. Maximum loan amount.

Except as provided in § 5.2, The maximum loan amount available for any single project through the Literary Fund is ~~\$2.5 million~~ \$5 million (effective for all applications approved by the board subsequent to the effective date of these regulations).

§ 5.2. In the event the applicant school division(s) certifies and the board determines that the project will result in the closing of two or more school buildings due to (i) inability to meet educational requirements, (ii) structural deficiencies, or (iii) cost inefficiencies, the applicant school division(s) shall be eligible for an amount up to an additional \$1 million on a Literary Fund loan for such project.

§ 5.3. In the event that two or more school divisions are consolidated into a single school division, the consolidated school division shall be eligible for an amount up to an additional \$1 million on a Literary Fund loan for any project resulting directly from said consolidation.

§ 5.4. 5.2. Minimum loan amount.

The minimum loan amount available for any single project through the Literary Fund is \$50,000 ~~(effective for all applications approved by the board subsequent to the effective date of these regulations)~~. The several applications to fund a regional project shall be combined for the purpose of meeting this minimum amount.

§ 5.5. 5.3. Duration of loans.

Literary Fund loans shall be made for a period of not less than five years nor more than 20 years. Literary Fund loans in an amount between \$50,000 and \$100,000 shall be for a period of five years.

PART VI. INTEREST RATES.

§ 6.1. Composite index.

Final Regulations

Except as modified by § 6.3 below, the interest rate for a Literary Loan shall be based on the school division's Composite Index, used for distribution of State Basic Aid, in effect when the board places the project on the Waiting List; ~~except with respect to the interest rate on those applications on the Approved Application List prior to March 23, 1987, which interest shall not be increased.~~

§ 6.2. Determination of interest rate.

The interest rate for a loan generally shall be determined on the basis of a composite index of the applying school division as follows:

	Per Annum Interest Rate
Step 1. Composite Index between .2 and .299 .2999	2.0%
Step 2. Composite Index between .3 and .399 .3999	3.0%
Step 3. Composite Index between .4 and .499 .4999	4.0%
Step 4. Composite Index between .5 and .5999	5.0%
Step 5. Composite Index between .6 and .8 .8000	6.0%

§ 6.3. Fixed rate.

The board reserves its option under § 22.1-150 of the Code of Virginia to fix the actual rate for a Literary Loan, on the date funds for the Literary Loan are approved for release, at one percentage point above or below the rate applicable on the date the application was placed on the Waiting List.

PART VII. WAITING LIST.

§ 7.1. Placement on Waiting List.

After a loan application initially has been approved by the department and the division requests in writing to be placed on the Waiting List for Literary Fund funding ~~submits a copy of the plans, approval by the division superintendent and architect~~, the board shall consider placement of the application on the Waiting List.

§ 7.2. Priorities.

Applications shall be placed into priorities on the Waiting List as follows:

Priority 1: Applications placed on the Waiting List by the Board of Education from school divisions having a composite index less than .6000, and an outstanding indebtedness (including the application considered for release of funds by the Board of Education) to the Literary Fund less than \$15 \$20 million.

Priority 2: Applications placed on the Waiting List by the Board of Education from school divisions having a

composite index of .6000 or above, or an outstanding indebtedness (including the application considered for release of funds by the Board of Education) to the Literary Fund greater than \$15 \$20 million.

§ 7.3. Eligibility for release of funding.

Within each priority, applications shall become eligible for release of funding in the same relative order as having been approved by the board as having met all conditions for a Literary Fund loan.

§ 7.4. Eligibility of Priority 2 applications.

Applications in Priority 2 shall be eligible for funding only when the board certifies determines that all applications, current and anticipated, and the applications to be added from Priority 2 can be funded within one year.

§ 7.5. Reassignment of application.

The board may place an individual application ahead of its position assigned by § 7.3, if the board finds that the best interest for the education in the state is served by such placement. Reasons for such placement may include, but are not limited to (i) asbestos containment or removal; (ii) natural disasters; (iii) unique circumstances that may be detrimental to education in the absence of a Literary Fund loan. Such placement shall be acted on by the board on an individual application basis when all requirements for release of a Literary Fund loan have been met by the school division.

§ 7.6. Priority funding.

The board shall provide priority funding for any application resulting directly from the consolidation of two or more divisions into a single school division.

PART VIII. RELEASE OF LITERARY FUNDS.

§ 8.1. Unencumbered sum available.

The release of Literary Funds shall be approved by the board for an application when the Literary Fund has an unencumbered sum available that is at least equal to the amount of the application.

§ 8.2. Expenditure of other funds.

All other funds committed to a Literary Fund project shall be expended before the Literary Fund loan shall be available for disbursement to the locality for the approved project.

§ 8.3. Actual disbursements.

Actual disbursements charged to the approved Literary Fund loan shall be subject to the submission of actual

invoices or other evidence of bills paid or due and payable by the locality.

§ 8.4. Award of construction contract.

Upon the award of the construction contract for an application in Priority 1 on the Waiting List, funds shall be released for the reimbursement of the design phase of architectural and engineering services for the project. Applications in Priority 2 shall be eligible for reimbursement of the design phase of architectural and engineering services only when the application has been certified to be eligible for funding by the board under § 7.4.

§ 8.5. Conditions.

After the department's approval of final plans and specifications under § 22.1-140, submission to the Superintendent of Public Instruction of a copy of the plans and specifications with a letter of approval by the division superintendent, accompanied with a statement by an architect or professional engineer licensed by the Virginia Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects that such plans and specifications are, to the best of his knowledge and belief, in compliance with the regulations of the Board of Education and the [Virginia] Uniform [Statewide] Building Code, the localities locality may proceed with a Literary Fund project and still qualify for reimbursement from the Literary Fund provided that under the following conditions:

1. A formal declaration is made by the governing body of intent to reimburse itself for prior expenditures paid for out of its general fund or to refinance debt that was used to pay or to reimburse itself for prior expenditures.

2. Short term financing, or advances from other fund balances and current operating funds, is used for that portion of the project to be financed by a Literary Fund loan (§ 22.1-148 B of the Code of Virginia) : A temporary loan which shall be subject to the restrictions found in § 22.1-110 of the Code of Virginia : Short term financing also may include advances from other fund balances and current operating funds. If ; or permanent financing such as bond funds authorized through locally approved referenda, by local charter, or the Virginia Public School Authority, or other funding mechanisms are used for the Literary Fund portion of the project, Literary Funds shall not be released for the project when the application moves to the top of the Waiting List and the literary funds can be used for the refinancing or redemption of such negotiable notes, bonds, or other evidences of indebtedness or obligations .

§ 8.6. Returning application to Approved Application List.

An application which has been approved for release of

funds and which has not been bid within two months of the board action to release funds will be returned to the Approved Application List. Upon the written request by the locality for reinstatement, any application so returned shall be reinstated by the board at the bottom of the appropriate priority (§ 7.2) of the Waiting List. The date of the board's reinstatement on the Waiting List by this section shall determine the relative order for eligibility of funding.

PART IX. PROPERTY TRANSFER.

§ 9.1. Property transfer.

When a school board or a local governing body sells or transfers property on which there is an outstanding balance on a Literary Loan, such balance becomes due and must be paid before title to the property is conveyed to the new owner. In no event, however, shall this provision be applicable where a court of competent jurisdiction decrees otherwise in an annexation settlement, or where fee simple title, after sale or transfer, remains in either the school board or its governing body.

PART X. TRANSITIONAL PROVISIONS.

§ 10.1: All loan applications which, prior to March 23, 1987, were on the current "inactive list" maintained by the department (i.e., loan applications which were approved by the board) and which were not on the Waiting List, shall be placed automatically on the "Approved Application List." The order in which such applications are placed on the Waiting List shall be governed by the provisions of these emergency regulations.

§ 10.2: Literary Loan applications on the "inactive list" dated March 1, 1987 shall have one year from March 23, 1987 to submit final plans and specifications to the department or be removed from the Approved Application List (unless the application was approved by the board subsequent to March 1, 1985).

§ 10.3: Literary Loan application Form V-A. 005 shall remain the proper form for filing a Literary Loan application, and is obtainable from the department.

VA.R. Doc. No. R95-239; Filed January 9, 1995, 4:14 p.m.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-32-500. Rules and Regulations Governing Emergency Medical Services Do Not Resuscitate Program.

Statutory Authority: §§ 32.1-151, 32.1-153 and 54.1-2987.1 of the Code of Virginia.

Final Regulations

Effective Date: March 8, 1995.

Summary:

These regulations set forth the purpose and applicability of the Emergency Medical Services Do Not Resuscitate Program, the requirements and provisions as to the EMS Do Not Resuscitate Order Form and Bracelet, and the implementation procedures, including resuscitative measures to be withheld or withdrawn and procedures to provide comfort care or to alleviate pain. These regulations will replace emergency regulations that were effective July 1, 1993.

The only amendments that have been made to the original proposed regulations are those necessitated by legislative changes to § 54.1-2987.1 of the Code of Virginia, effective July 1, 1994. No agency discretion is involved. These changes include the following:

1. Added hospital emergency department health care providers to those who are authorized to honor EMS Do Not Resuscitate (EMS/DNR) Orders.
2. Expanded the eligibility for EMS/DNR Orders to include not only patients with diagnosed terminal conditions, but others for whom a physician has issued a DNR Order. Also, now includes all ages.
3. Provides that nothing in this section or the definition of EMS/DNR Orders shall be construed to limit the issuance of or authorization of physicians and those persons designated in § 54.1-2901 of the Code of Virginia to follow DNR Orders other than EMS/DNR Orders.

Summary of Public and Agency Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Susan D. McHenry, Director, Office of Emergency Medical Services, Department of Health, 1538 East Parham Road, Richmond, VA 23228, telephone (804) 371-3500. There may be a charge for copies.

VR 355-32-500. Rules and Regulations Governing Emergency Medical Services Do Not Resuscitate Program.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Agent" means an adult appointed by a competent adult patient under an advance directive, executed or made in accordance with the provisions of § 54.1-2983 of the Code

of Virginia, to make health care decisions for him.

"Attending physician" means the primary physician who has responsibility for the treatment and care of the patient.

"Authorized decision maker" means, in order of priority, designated agent, guardian or committee, spouse, adult child, parent, adult brother or sister, other relative in descending order of blood relationship; provided, however, that when two or more persons in the same class with equal decision-making priority are in disagreement, a majority authorization shall be controlling.

"Board" means the State Board of Health.

"Cardiac arrest" means the cessation of a functional heartbeat.

"Cardiopulmonary resuscitation" means medical procedures including cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, and defibrillation, administration of cardiac resuscitation medications and related procedures.

"Commissioner" means the State Health Commissioner.

["Do Not Resuscitate Order" means an order written by the attending physician directing that a particular patient not be resuscitated, with such order including the patient's full legal name, the physician's signature, and the date issued.]

"Emergency medical services" ("EMS") means the services utilized in responding to the perceived individual needs for immediate medical care in order to prevent loss of life, aggravation of physiological or psychological illness or injury including any or all services which could be described as first response, basic life support, advanced life support, specialized life support, patient transportation, medical control, and rescue.

"Emergency medical services agency" [("EMS agency")] means any person, firm, corporation, or organization licensed by the board, which is properly engaged in the business, service, or regular activity of providing emergency medical care to persons who are sick, injured, wounded or otherwise incapacitated or helpless.

"Emergency Medical Services Do Not Resuscitate Order" ("EMS/DNR Order") means a written physician's order in a form approved by the board which authorizes qualified emergency medical services personnel [and hospital emergency department health care providers] to withhold or withdraw cardiopulmonary resuscitation from a particular patient in the event of cardiac or respiratory arrest.

"Emergency medical services personnel" ("EMS personnel") means persons responsible for the direct provision of emergency medical services in a given

medical emergency including any or all persons who could be described as a first responder, attendant, attendant-in-charge, or operator.

"Qualified emergency medical services personnel" means EMS personnel who are authorized to follow EMS/DNR Orders. This term shall include any person (i) holding current certification to provide emergency medical patient care or treatment by the Department of Health, including those certified as EMS First Responders, Emergency Medical Technicians (EMT), EMT-Shock/Trauma, EMT-Cardiac, and EMT-Paramedic and (ii) acting in accordance with EMS/DNR Order Implementation Protocols.

["Hospital emergency department health care provider" means a licensed physician or a registered nurse working in a hospital emergency department.]

"Respiratory arrest" means cessation of breathing.

"Terminal condition" means a condition caused by injury, disease or illness from which, to a reasonable degree of medical probability, a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is in a persistent vegetative state, as defined in § 54.1-2982 of the Code of Virginia.

PART II. PURPOSE AND APPLICABILITY.

§ 2.1. Purpose of regulations.

The board has promulgated these regulations in order to ensure [~~timely and~~] appropriate implementation and application of the EMS/DNR Order statute [; effective July 1, 1992] .

§ 2.2. Administration of regulations.

These regulations shall be administered by the board and the commissioner.

1. The board shall have the responsibility to promulgate and amend, as appropriate, regulations governing EMS/DNR Orders.
2. The commissioner, pursuant to his authority under § 32.1-20 of the Code of Virginia, shall administer these regulations.

§ 2.3. Application of regulations.

These regulations shall have general application throughout the Commonwealth.

PART III. REQUIREMENTS AND PROVISIONS.

Article 1. Emergency Medical Services Do Not Resuscitate Order

Form.

§ 3.1. General.

The EMS/DNR Order Form shall be a unique document printed on distinctive security paper and sequentially numbered, as approved by the board, and consistent with these regulations. The requirements and provisions of §§ 3.2 through 3.6 shall apply to the approved EMS/DNR Order Form.

§ 3.2. Content of the form.

A valid EMS/DNR Order Form shall include (i) the attending physician's signed statement regarding the patient's [~~terminal~~ medical] condition and his Do Not Resuscitate determination as set forth in the order form, (ii) the patient's signed directives, or (iii) a designated agent's or authorized decision maker's signature, if applicable.

§ 3.3. Effective period for a signed EMS/DNR Order Form.

A signed EMS/DNR Order Form shall be effective for no more than one year from the date the order is written. If the patient is still living at the end of that time, a new EMS/DNR Order Form may be executed and issued by the attending physician.

§ 3.4. Original EMS/DNR Order Form.

Only an original EMS/DNR Order Form, or an unaltered EMS/DNR Order Bracelet, as provided for in § 3.7 of these regulations, [or another Do Not Resuscitate Order, as provided for in § 3.8,] shall be valid for purposes of withholding or withdrawing cardiopulmonary resuscitation by qualified EMS personnel in the event of cardiac or respiratory arrest. The original form shall be maintained and displayed at the patient's home in one of the places designated on the form or shall accompany the patient, if traveling. Copies of the EMS/DNR Order Form may be given to other providers or persons for information, with the express consent of the patient or the patient's designated agent or authorized decision maker.

§ 3.5. Revocation of an EMS/DNR Order.

An EMS/DNR Order may be revoked at any time by the patient (i) by physical cancellation or destruction of the EMS/DNR Order Form and Bracelet by the patient or another in his presence and at his direction; or (ii) by oral expression of intent to revoke [; ~~or~~ . The EMS/DNR Order may also be revoked] by the patient's attending physician, or the designated agent or authorized decision maker for the patient.

§ 3.6. Distribution of EMS/DNR Order Forms.

Approved, sequentially numbered EMS/DNR Forms, with instructions, shall be available to physicians through local

Final Regulations

health department offices and local hospitals, and to private physicians, on request. Other distribution points may be approved by the commissioner to meet identified needs.

Article 2. EMS/DNR Order Bracelet.

§ 3.7. The EMS/DNR Order Bracelet.

An EMS/DNR Order Bracelet, as approved by the board, shall be issued with the EMS/DNR Order. Such EMS/DNR Order Bracelet shall be a uniquely designed, easily identifiable plastic identification bracelet containing the patient's name, Social Security Number, attending physician's name and telephone number, number of the EMS/DNR Order, and date of issuance and expiration of the order. An intact, unaltered, current EMS/DNR Bracelet may be honored by qualified EMS personnel in lieu of an original EMS/DNR Order Form.

[Article 3. Other Do Not Resuscitate Orders.

§ 3.8. Other Do Not Resuscitate Orders.

As provided for in § 54.1-2987.1 of the Code of Virginia, nothing in that section or the definition of Emergency Medical Services Do Not Resuscitate Orders provided in § 54.1-2982 of the Code of Virginia shall be construed to limit the issuance of or the authorization of physicians and those persons designated in § 54.1-2901 of the Code of Virginia to follow Do Not Resuscitate Orders other than Emergency Medical Services Do Not Resuscitate Orders. In accordance with this provision, qualified emergency medical services personnel or hospital emergency department health care providers may honor other Do Not Resuscitate Orders in a patient's chart, provided such order includes the patient's full legal name, the physician's signature, and the date issued.]

PART IV. IMPLEMENTATION PROCEDURES.

Article 1. Issuance of an EMS/DNR Order.

§ 4.1. Issuance of an EMS/DNR Order.

An EMS Do Not Resuscitate Order may only be issued by an attending physician for a patient who has been diagnosed as having a terminal condition [or other advanced chronic illness or condition which, in the physician's judgment, warrants the issuance of such order and when such patient or the patient's agent or authorized decision maker so directs. If the patient is not an adult, the physician shall carefully review with the parents or legal guardian all of the implications of this decision] . The physician shall explain to the patient or, if pertinent, his agent or his family the alternatives available, including issuance of an EMS/DNR Order. If the option of an

EMS/DNR Order is agreed upon, the attending physician shall have the following responsibilities:

1. Obtain the signature of the patient or designated agent or authorized decision maker or the spokesman for a majority of the highest class of decision makers.
2. Execute and date the physician order on the EMS/DNR Order Form.
3. Issue the original EMS/DNR Order Form and Bracelet and place bracelet on patient.
4. Explain how and by whom the EMS/DNR Order may be revoked.

Article 2. EMS Do Not Resuscitate Implementation Procedures.

§ 4.2. General.

Qualified emergency medical services personnel shall conform with the general procedures and published State EMS/DNR Order Implementation Protocols when responding to a patient who is in cardiac or respiratory arrest and who is known or suspected to have an EMS/DNR Order in effect.

§ 4.3. Initial assessment and intervention.

Perform routine patient assessment and resuscitation or intervention until EMS/DNR Order [or other DNR Order] status is confirmed, as follows:

1. Determine that EMS/DNR Order Bracelet is intact and not defaced or that the original EMS/DNR Order Form [or other DNR Order] is present and current.
2. Verify, through driver's license or other identification with photograph and signature or by positive identification by a family member or other person who knows patient, that the patient in question is the one for whom the EMS/DNR Order was issued.
3. If no EMS/DNR Order Bracelet is found, ask family member or other person to look for the original EMS/DNR Order Form [or other written DNR order]
4. If the EMS/DNR Order Bracelet is not [attached intact on the patient's arm] or has been defaced, and if no valid EMS/DNR Order Form [or other DNR Order] is produced, consider the EMS/DNR Order to be invalid.

§ 4.4. Resuscitative measures to be withheld or withdrawn.

In the event of cardiac or respiratory arrest of a patient with a valid EMS/DNR Order under the criteria set forth in § 4.3 of this regulation, the following procedures should be withheld or withdrawn by qualified EMS personnel [or

hospital emergency department health care providers] , unless otherwise directed by the attending physician.

1. Cardiopulmonary resuscitation (CPR)
2. Endotracheal intubation or other advanced airway management
3. Artificial ventilation
4. Defibrillation
5. Cardiac resuscitation medications
6. Related procedures, as defined by attending physician or medical protocols.

§ 4.5. Procedures to provide comfort care or to alleviate pain.

In order to provide comfort care or to alleviate pain for a patient with a valid EMS/DNR Order [or other DNR Order] , the following interventions may be provided, depending on the needs of the particular patient.

1. Airway (excluding intubation or advanced airway management)
2. Suction
3. Oxygen
4. Pain medications (Advanced Life Support personnel only)
5. Control bleeding
6. Make patient comfortable
7. Be supportive to patient and family

§ 4.6. Revocation.

The patient, the attending physician, or the patient's designated agent or authorized decision maker may revoke the EMS/DNR Order at any time, as provided in § 3.5 of these regulations. If an EMS/DNR Order is revoked by one of these authorized persons, EMS personnel shall resume full resuscitation and treatment of the patient.

§ 4.7. Documentation.

When following an EMS/DNR Order [or other DNR Order] for a particular patient, EMS personnel shall document the response in the following way:

1. Use a standard prehospital patient care report form.
2. Describe assessment of patient's status.
3. Document which identification (EMS/DNR Order

Form or Bracelet) was used to confirm EMS/DNR status and that it was intact, not defaced, not canceled, or not officially revoked.

4. Record actual EMS/DNR Order number as well as name of patient's attending physician.

5. If transporting the patient, keep original EMS/DNR Order Form with the patient.

§ 4.8. General considerations.

The following general principles shall apply to implementation of EMS Do Not Resuscitate Orders:

1. If there is misunderstanding with family members or others present at the scene or if there are other concerns about following the EMS/DNR Orders, contact the attending physician or EMS medical control for guidance.
2. If there is any question about the validity of an EMS/DNR Order, resuscitate.
3. An EMS/DNR Order does not mean do not treat otherwise or do not provide appropriate care. Provide all possible comfort care and treat patient and family with care and concern.

VA.R. Doc. No. R95-143; Filed November 22, 1994, 11:05 a.m.



Order # 000001

Date Order Written _____
(Expires one year from this date)

**VIRGINIA EMERGENCY MEDICAL SERVICES
DO NOT RESUSCITATE ORDER**

Patient's Full Legal Name _____

ATTENDING PHYSICIAN'S ORDER

I, the undersigned, state that I am the attending physician of the patient named above. I have diagnosed and certified in the patient's medical record that he/she is in a terminal condition, or has a medical condition caused by injury, disease or illness from which, to a reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is in a persistent vegetative state.

I further certify: (must check 1 or 2)

- 1. The patient is CAPABLE of making an informed decision about providing, withholding or withdrawing a specific medical treatment or course of treatment. (Signature of patient is required, see reverse).
- 2. The patient is INCAPABLE of making an informed decision about providing, withholding or withdrawing a specific medical treatment because he/she is unable to understand the nature, extent or probable consequences of the proposed medical decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision.

If you checked 2 above, (patient is INCAPABLE of making an informed decision), check 1, 2, or 3 below:

- 1. The patient has executed a written advance directive which directs that life-prolonging procedures be withheld or withdrawn in the event he/she is diagnosed as being in a terminal condition.
- 2. The patient has executed a written advance directive which appoints an agent to make health care decisions on his/her behalf and provides that agent with authority to direct that life-prolonging procedures be withheld or withdrawn in the event he/she is diagnosed as being in a terminal condition. (Signature of agent is required, see reverse).
- 3. The patient has NOT executed a written advance directive (living will or durable power of attorney for health care). (Signature of guardian or committee, if one has been appointed, or authorized family member is required, see reverse).

I hereby direct any and all qualified Emergency Medical Services Personnel, commencing on the effective date noted above and expiring one year from that date, to withhold cardiopulmonary resuscitation (cardiac compression, endotracheal intubation, and other advanced airway management, artificial ventilation, and defibrillation and related procedures) from the patient in the event of the patient's cardiac or respiratory arrest. I further direct such personnel to provide to the patient other medical interventions, such as intravenous fluids, oxygen, or other therapies deemed necessary to provide comfort care or to alleviate pain.

Signature of Attending Physician _____

Telephone # (Emergencies) _____

Printed Name _____

Type in information, cut out, fold and insert in bracket

Name	OSN #
ID	Phone #

PATIENT'S SIGNATURE

I, the undersigned, hereby direct that in the event of my cardiac or respiratory arrest, efforts at cardiopulmonary resuscitation not be initiated. I understand that I may revoke these directions at any time by physical cancellation or destruction of this form and the accompanying bracelet, or by orally expressing a desire to be resuscitated to Emergency Medical Services (EMS) Personnel. I also understand that if EMS Personnel have any doubts about the applicability or validity of this order, they will begin cardiopulmonary resuscitation.

Signature of Patient

**SIGNATURE OF DESIGNATED AGENT
OR OTHER AUTHORIZED DECISION MAKER**

I, the undersigned, hereby certify that I am authorized to provide consent on the patient's behalf by virtue of my relationship to the patient as _____ (in order of priority: designated agent, guardian or committee, spouse, adult child, parent, adult brother or sister, other relative in descending order of blood relationship). In that capacity, I hereby direct that in the event of the patient's cardiac or respiratory arrest, efforts at cardiopulmonary resuscitation not be initiated. I understand that I may revoke these directions at any time by physical cancellation or destruction of this form and the accompanying bracelet. I also understand that if EMS Personnel have any doubts about the applicability or validity of this order, they will begin cardiopulmonary resuscitation of the patient.

Signature of Authorized Decision Maker

EMS PERSONNEL WILL LOOK FOR THIS ORDER IN THE FOLLOWING PLACES:

- ON THE BACK OF THE DOOR LEADING TO THE PATIENT'S BEDROOM,
- ON THE BEDSIDE TABLE, BESIDE THE PATIENT'S BED,
- ON THE REFRIGERATOR, OR
- IN THE PATIENT'S WALLET

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

REGISTRAR'S NOTICE: The following regulation is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 425-02-29. Hazardous Waste Operations and Emergency Response Standard, General Industry (1910.120).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: April 1, 1995.

Summary:

Federal OSHA issued technical amendments to existing Appendix B, "General Description and Discussion of the Levels of Protection and Protective Gear," and is adding a new nonmandatory Appendix E, "Training Curriculum Guidelines" to 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response.

The technical amendments to Appendix B involve the updating of certain reference sources listed in Appendix B to both 29 CFR 1910.120.

The new Appendix E of 29 CFR 1910.120 provides suggested guidelines for a more effective training curriculum and program. The mandatory requirements for the training programs are set forth in the main body of 29 CFR 1910.120. The addition of a nonmandatory Appendix E to this section will provide supplementary information that can be used by employers for training program development directed toward training those employees engaged in hazardous waste operations and emergency response activities within the scope of 29 CFR 1910.120.

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Hazardous Waste Operations and Emergency Response Standard, General Industry (1910.120) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's technical amendments to the nonmandatory Appendices B and E of the final rule

entitled, "Hazardous Waste Operations and Emergency Response Standard, General Industry," 29 CFR 1910.120, as published in the Federal Register, Vol. 59, No. 161, pp. 43268-43280, Monday, August 22, 1994, along with technical amendments to the Hazardous Waste Operations and Emergency Response Standard, Construction Industry, 29 CFR 1926.65. The amendments as adopted are not set out.

When the regulations as set forth in the nonmandatory appendices to the General Industry Standard for Hazardous Waste Operations and Emergency Response; Final Rule, § 1910.120, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR Assistant Secretary	VOSH Standard Commissioner of Labor and Industry Department
Agency September 21, 1994	April 1, 1995

VA.R. Doc. No. R95-245; Filed January 13, 1995, 9:38 a.m.

Final Regulations



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(834) 786-3591

January 25, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
C/o The Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

ATTN: John J. Crisanti, Director
Office of Enforcement Policy

RE: VR 425-02-29 - Hazardous Waste Operations and
Emergency Response Standard,
General Industry, Sec. 1910.120

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4.(c), of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Handwritten signature of Joan W. Smith in cursive.
Joan W. Smith
Registrar of Regulations

JWS:jbc

* * * * *

REGISTRAR'S NOTICE: The following regulation is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 425-02-111. Hazardous Waste Operations and Emergency Response Standard, Construction Industry (1926.65).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: April 1, 1995.

Summary:

Federal OSHA issued technical amendments to existing Appendix B, "General Description and Discussion of the Levels of Protection and Protective Gear," and is adding a new nonmandatory Appendix E, "Training Curriculum Guidelines" to § 1926.65, Hazardous Waste Operations and Emergency Response.

The technical amendments to Appendix B involve the updating of certain reference sources listed in Appendix B to § 1926.65.

The new Appendix E of § 1926.65 provides suggested guidelines for a more effective training curriculum and program. The mandatory requirements for the training programs are set forth in the main body of § 1926.65. The addition of a nonmandatory Appendix E to this section will provide supplementary information that can be used by employers for training program development directed toward training those employees engaged in hazardous waste operations and emergency response activities within the scope of § 1926.65.

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Hazardous Waste Operations and Emergency Response Standard, Construction Industry (1926.65) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's technical amendments to the nonmandatory Appendices B and E of the final rule entitled, "Hazardous Waste Operations and Emergency

Response Standard, Construction Industry," 29 CFR 1926.65, as published in the Federal Register, Vol. 59, No. 161, pp. 43275-43280, Monday, August 22, 1994. The amendments as adopted are not set out.

When the regulations as set forth in the nonmandatory appendices to the Construction Industry Standard for Hazardous Waste Operations and Emergency Response; Final Rule, § 1926.65, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR Assistant Secretary	VOSH Standard Commissioner of Labor and Industry Department
Agency September 21, 1994	April 1, 1995

VA.R. Doc. No. R95-246; Filed January 13, 1995, 9:39 a.m.

Final Regulations



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

January 25, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
C/o The Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

ATTN: John J. Crisanti, Director
Office of Enforcement Policy

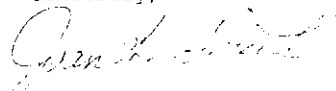
RE: VR 425-02-111 - Hazardous Waste Operations and
Emergency Response Standard,
Construction Industry, Sec. 1926.65

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4.(c), of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,


Joan W. Smith
Registrar of Regulations

JWS:jbc

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

REGISTRAR'S NOTICE: Due to the length, only the amended pages of VR 460-02-2.2100:1, Coverage and Conditions of Eligibility, and VR 460-02-2.6100:1, Eligibility Conditions and Requirements, are being published; however, a summary is being published in lieu of full text. The full text of the regulations is available for public inspection at the Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219 or at the Office of the Registrar of Regulations, Virginia Code Commission, General Assembly Building, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219.

Title of Regulations: State Plan for Medical Assistance Relating to Expanded Coverage for Children Ages 6 to 19.

VR 460-02-2.2100:1. Coverage and Conditions of Eligibility (Attachment 2.2-A).

VR 460-02-2.6100:1. Eligibility Conditions and Requirements (Attachment 2.6-A).

VR 460-03-2.6101:1. Income Eligibility Levels (Supplement 1 to Attachment 2.6-A).

VR 460-03-2.6108.1. More Liberal Income Disregards (Supplement 8a to Attachment 2.6-A).

VR 460-03-2.6108.2. More Liberal Methods of Treating Resources under § 1902(r)(2) of the Act (Supplement 8b to Attachment 2.6-A).

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

Effective Date: March 9, 1995.

Summary:

The purpose of this action is to make amendments to the Plan for Medical Assistance to conform existing policy with federal requirements regarding the placement of eligibility policy within the State Plan.

The 1992 Appropriations Act, § 1-88 Item 313(M), directed the Department of Medical Assistance Services (DMAS) to amend the State Plan to establish an income level equal to 100% of the official poverty guideline for certain qualified children (as defined in Title XIX of the Social Security Act, § 1902 (1)(2)(A) for qualified children described in § 1902 (a)(10)(A)(ii)(IX) who have attained age six but have not attained age 19).

Title XIX of the Social Security Act requires states to use an income criteria equal to 100% of the federal poverty income guideline when determining the Medicaid eligibility of children born after September 30, 1983, who have attained age six but who have not attained age 19. Title XIX § 1905(r)(2) also permits states, at their option, to cover poor children born before September 30, 1983. The 1992 Appropriations Act directed that Medicaid coverage

be expanded by setting the eligibility income level for children who have attained the age of six but have not attained the age of 19 to 100% of the federal poverty income level in fiscal year 1994. By covering children born after September 30, 1973, Medicaid coverage can be expanded to children up to age 19 at this level.

Using these authorities, DMAS previously promulgated regulations to expand Medicaid coverage to qualified children who are born after September 30, 1973, and who have attained the age of six but have not attained the age of 19. Although this change was required by the 1992 Appropriations Act, this change is considered by HCFA to be a more liberal treatment than what is federally mandated. More liberal treatment of standards must be defined through a specific means in the State Plan under the authority granted in § 1902(r)(2) of the Social Security Act. DMAS had previously defined its more liberal standards based on another section of the Act and placed the standards in another place in the State Plan. HCFA approved these State Plan amendments in 1992. However, when the 1993 amendments were submitted, HCFA advised that the placement in the State Plan was technically incorrect and advised state officials that the State Plan citations must be changed in order to comply with federal requirements. Pending its approval of Virginia's 1993 State Plan amendment, HCFA offered guidance as to how to properly define the more liberal treatment of standards for this group of children. The changes requested by HCFA require changing the location of the policies within the State Plan.

These changes will not result in any changes in Medicaid coverage because the policies have been in effect since July 1, 1993, as mandated by the 1992 Appropriations Act. These amendments are technical changes only. Finalizing these changes will allow HCFA to approve the 1993 amendment with the necessary revisions. HCFA approval will give DMAS the authority to correctly claim federal matching funds already collected for coverage provided to these recipients from July 1993 to the present.

Summary of Public Comment and Agency Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7933. There may be a charge for copies.

VR 460-02-2.2100:1. Coverage and Conditions of Eligibility (Attachment 2.2-A).

Page 4

A. Mandatory Coverage - Categorically Needy and Other

Final Regulations

Required Special Groups (Continued)

7. a. (2) Is a member of a family that would be eligible for aid to families with dependent children of unemployed parents if the state had an AFDC-unemployed parents program; or

(3) Would be eligible for an AFDC cash payment on the basis of the income and resource requirements of the state's approved AFDC plan.

Citation: 1902(a)(10)(A)(i)(III) and 1905(n) of the Act

(b) Children born after September 30, 1983, who are under age 19 and who would be eligible for an AFDC cash payment on the basis of the income and resource requirements of the state's approved AFDC plan.

Children born after ~~September 30, 1979~~ 1973 (specify optional earlier date) who are under age 19 and who would be eligible for an AFDC cash payment on the basis of the income and resource requirements of the state's approved AFDC plan.

Supplement 8a and 8b to Attachment 2.6-A describe the more liberal methods of treating income and resources under § 1902(r)(2) of the Act.

Page 21

B. Optional Groups Other Than the Medically Needy (Continued)

Citation: ~~1902(a)(10)(A)(ii)(IX)~~ and ~~1902(1)(1)(D)~~ of the Act ~~1905(n)(2)~~

15. The following individuals who are not mandatory categorically needy, who have income that does not exceed the income level (established at an amount up to 100 percent of the Federal poverty level) specified in Supplement 1 of Attachment 2.6-A for a family of the same size:

Children who are born after September 30, ~~[1979 1973]~~ and who have attained 6 years of age but have not attained age 13 19.

VR 460-02-2.6100:1. Eligibility Conditions or Requirements (Attachment 2.6-A).

Page 6a

Supplement 2 to Attachment 2.6-A specifies the resource levels for mandatory and optional categorically needy poverty level related groups, and for medically needy groups.

Supplement 7 to Attachment 2.6-A specifies the income levels for categorically needy aged, blind, and disabled persons who are covered under requirements

more restrictive than SSI.

Supplement 4 to Attachment 2.6-A specifies the methods for determining income eligibility used by States that have more restrictive methods than SSI, permitted under § 1902(f) of the Act.

Supplement 5 to Attachment 2.6-A specifies the methods for determining resource eligibility used by States that have more restrictive methods than SSI, permitted under § 1902(f) of the Act.

Supplement 8a to Attachment 2.6-A specifies the methods for determining income eligibility used by States that are more liberal than the methods of the cash assistance programs, permitted under § 1902(r)(2) of the Act.

Supplement 8b to Attachment 2.6-A specifies the methods for determining resource eligibility used by States that are more liberal than the methods of the cash assistance programs, permitted under § 1902(r)(2) of the Act.

VR 460-03-2.6101:1. Income Eligibility Levels.

A. Mandatory categorically needy.

1. AFDC-related groups other than poverty level pregnant women and infants.

Family Size	Need Standard	Payment Standard	Maximum Payment Amounts
	See Table 1	See Table 2	

STANDARDS OF ASSISTANCE

Size of Assistance Unit	GROUP I	
	Table 1 (100%)	Table 2 (90%)
1	\$ 146	\$ 131
2	229	207
3	295	265
4	358	322
5	422	380
6	473	427
7	535	482
8	602	541
9	657	591
10	718	647
Each person above 10	61	56

MAXIMUM REIMBURSABLE PAYMENT \$403

GROUP II

Table Table

Final Regulations

Size of Assistance Unit	1 (100%)	2 (90%)
1	\$ 174	\$ 157
2	257	231
3	322	291
4	386	347
5	457	410
6	509	458
7	570	512
8	636	572
9	692	623
10	754	678
Each person above 10	61	56

MAXIMUM REIMBURSABLE PAYMENT \$435

GROUP III

Size of Assistance Unit	Table 1 (100%)	Table 2 (90%)
1	\$ 243	\$ 220
2	327	294
3	393	354
4	457	410
5	542	488
6	593	534
7	655	590
8	721	650
9	779	701
10	838	755
Each person above 10	61	56

MAXIMUM REIMBURSABLE PAYMENT \$518

2. Pregnant women and infants under 1902(a)(10)(i)(IV) of the Act:

Effective April 1, 1990, based on the following percentage of the official federal income poverty level

133% % (no more than 185%)
(specify)

Family Size	Income Level
1	\$ 9,789
2	\$13,087
3	\$16,386
4	\$19,684
5	\$22,982

3. Children under § 1902(a)(10)(i)(VI) of the Act (children who have attained age 1 but have not attained age 6), the income eligibility level is 133% of the federal poverty level (as revised annually in the Federal Register) for the size family involved.

4. For children under § 1902(a)(10)(i)(VII) of the Act

(children who were born after September 30, 1983, and have attained age 6 but have not attained age 19), the income eligibility level is 100% of the federal poverty level (as revised annually in the Federal Register) for the size family involved.

B. Optional categorically needy groups with income related to federal poverty level.

1. Pregnant woman and infants. The levels for determining income eligibility for optional groups of pregnant women and infants under the provisions of §§ 1902(a)(1)(A)(ii)(IX) and 1902(l)(2) of the Act are as follows:

Based on.....% of the official federal income poverty level (no less than 133% and no more than 185%).

Family Size	Income Level
1	\$
2	\$
3	\$
4	\$
5	\$

2. Children between ages 6 and 19. The levels for determining income eligibility for groups of children who are born after September 30, 1973, and who have attained six years of age but are under 19 years of age under the provisions of §§ 1902(1)(2) and 1905(n)(2) of the Act are as follows:

Based on 100% (no more than 100%) of the official federal income poverty line.

Family Size	Income Level
1	\$ 7,360
2	9,840
3	12,320
4	14,800
5	17,280
6	19,760
7	22,240
8	24,720
9	27,200
10	29,680

3. Children between ages 6 and 8. The levels for determining income eligibility for groups of children who are born after September 30, 1983, and who have attained 6 years of age but are under 8 years of age under the provisions of § 1902(1)(2) of the Act are as follows:

Based on...% (no more than 100%) of the official federal income poverty line.

Family Size	Income Level
-------------	--------------

Final Regulations

- 1 \$
- 2 \$
- 3 \$
- 4 \$
- 5 \$
- 6 \$
- 7 \$
- 8 \$
- 9 \$
- 10 \$

N/A - Erroneous Group

4. 3. Aged and disabled individuals. The levels for determining income eligibility for groups of aged and disabled individuals under the provisions of § 1902(m)(4) of the Act are as follows:

Based on.....% on the official federal income poverty line.

Family Size	Income Level
1	\$
2	\$
3	\$
4	\$
5	\$

If an individual receives a Title II benefit, any amount attributable to the most recent increase in the monthly insurance benefit as a result of a Title II COLA is not counted as income during a "transition period" beginning with January, when the Title II benefit for December is received, and ending with the last day of the month following the month of publication of the revised annual federal poverty level.

For individuals with Title II income, the revised poverty levels are not effective until the first day of the month following the end of the transition period.

For individuals not receiving Title II income, the revised poverty levels are effective no later than the beginning of the month following the date of publication.

C. Qualified Medicare beneficiaries with incomes related to federal poverty level.

The levels for determining income eligibility for groups of qualified Medicare beneficiaries under the provisions of § 1905(p)(2)(A) of the Act are as follows:

1. Non-§ 1902(f) states:

a. Based on the following percentage of the official federal income poverty level:

- Effective Jan. 1, 1989: 85% %
(no more than 100)
- Effective Jan. 1, 1990: 90% %
(no more than 100)

Effective Jan. 1, 1991: 100%

Effective Jan. 1, 1992: 100%

b. Levels:

Family Size	Income Level
1	\$
2	\$

2. § 1902(f) states which as of January 1, 1987, used income standards more restrictive than SSI. (VA did not apply a more restrictive income standard as of January 1, 1987.)

a. Based on the following percentage of the official federal income poverty level:

- Effective Jan. 1, 1989: 85% %
(no more than 100)
- Effective Jan. 1, 1990: 85% 90%
(no more than 100)
- Effective Jan. 1, 1991: 95% 100%
(no more than 100)
- Effective Jan. 1, 1992: 100%

b. Levels:

Family Size	Income Level
1	\$ 7,360
2	\$ 9,840

D. Income levels - medically needy.

1. Applicable to all groups

Applicable to all groups except those specified below. Excepted group income levels are also listed on an attached page 3.

(1)	(2)	(3)	(4)	(5)
Family Size	Net income level protected for 12 months	Amount by which Column 2 exceeds limits specified in 42 CFR 435.1007 ¹	Net income level for persons living in rural areas for..... months	Amount by which Column 4 exceeds limits specified in 42 CFR 435.1007 ¹

urban only

urban and rural See subdivision 2 of this subsection for required income levels.

1	\$	\$	\$	\$
2	\$	\$	\$	\$
3	\$	\$	\$	\$
4	\$	\$	\$	\$
5	\$	\$	\$	\$
6	\$	\$	\$	\$
7	\$	\$	\$	\$
8	\$	\$	\$	\$
9	\$	\$	\$	\$
10	\$	\$	\$	\$
For each additional person, add:				
	\$	\$	\$	\$

Final Regulations

¹ The agency has methods for excluding from its claim for FFP payments made on behalf of individuals whose income exceeds these limits.

2. Applicable to all groups

Applicable to:

(1)	(2)	(5)	
Family Size	Net income level protected for maintenance	Amount by which exceeds limits specified in 42 CFR 435.1007	column 2

urban only

urban and rural

	Group I	Group II	Group III	
1	\$2,600	\$3,000	\$3,900	\$0
2	\$3,400	\$3,700	\$4,800	\$0
3	\$3,900	\$4,300	\$5,300	\$0
4	\$4,400	\$4,800	\$5,800	\$0
5	\$4,900	\$5,300	\$6,300	\$0
6	\$5,400	\$5,800	\$6,800	\$0
7	\$5,900	\$6,300	\$7,300	\$0
8	\$6,500	\$6,900	\$7,800	\$0
9	\$7,100	\$7,500	\$8,500	\$0
10	\$7,800	\$8,200	\$9,100	\$0
For each additional person, add:				
	\$ 600	\$ 600	\$ 600	\$0

*NOTE: As authorized in § 4718 of OBRA '90.

Grouping of Localities

GROUP I

Counties

Accomack	King George
Alleghany	King and Queen
Amelia	King William
Amherst	Lancaster
Appomattox	Lee
Bath	Louisa
Bedford	Lunenburg
Bland	Madison
Botetourt	Mathews
Brunswick	Mecklenburg
Buchanan	Middlesex
Buckingham	Nelson
Campbell	New Kent
Caroline	Northampton
Carroll	Northumberland
Charles City	Nottoway
Charlotte	Orange
Clarke	Page
Craig	Patrick

Culpeper	Pittsylvania
Cumberland	Powhatan
Dickenson	Prince Edward
Dinwiddie	Prince George
Essex	Pulaski
Fauquier	Rappahannock
Floyd	Richmond
Fluvanna	Rockbridge
Franklin	Russell
Frederick	Scott
Giles	Shenandoah
Gloucester	Smyth
Goochland	Southampton
Grayson	Spotsylvania
Greene	Stafford
Greensville	Surry
Halifax	Sussex
Hanover	Tazewell
Henry	Washington
Highland	Westmoreland
Isle of Wight	Wise
James City	Wythe
	York

Cities

Bristol	Franklin
Buena Vista	Galax
Clifton Forge	Norton
Danville	Poquoson
Emporia	Suffolk

GROUP II

Counties

Albemarle	Loudoun
Augusta	Roanoke
Chesterfield	Rockingham
Henrico	Warren

Cities

Chesapeake	Portsmouth
Covington	Radford
Harrisonburg	Richmond
Hopewell	Roanoke
Lexington	Salem
Lynchburg	Staunton
Martinsville	Virginia Beach
Newport News	Williamsburg
Norfolk	Winchestereach
Petersburg	

GROUP III

Counties

Arlington	Montgomery
Fairfax	Prince William

Final Regulations

Cities

Alexandria	Fredericksburg
Charlottesville	Hampton
Colonial Heights	Manassas
Fairfax	Manassas Park
Falls Church	Waynesboro

E. Income eligibility levels—mandatory group of specified low-income Medicare beneficiaries with incomes up to federal poverty line.

The levels for determining income eligibility for groups of qualified Medicare beneficiaries under the provisions of § 1905(a)(10)(E) of the Act are as follows:

Based on 110%, and updated annually, of the official federal nonfarm income poverty line:

Size of Family Unit	Poverty Guideline
1	\$ 8,096
2	\$10,824

F. Income eligibility levels—mandatory group of qualified disabled and working individuals with incomes up to federal poverty line.

The levels for determining income eligibility for groups of qualified disabled and working individuals under the provisions of § 1905(s) of the Act are as follows:

Based on 200%, and updated annually, of the official federal nonfarm income poverty level:

Size of Family Unit	Poverty Guideline
1	\$14,720
2	\$19,680

VR 460-03-2.6108.1. More Liberal Income Disregards (Supplement 8a to Attachment 2.6-A).

For children covered under § 1902(a)(10)(A)(i)(III) and 1905(n) of the Social Security Act, the Commonwealth of Virginia will disregard one dollar plus an amount equal to the difference between 100% of the AFDC payment standard for the same family size and 100% of the Federal Poverty Level for the same family size as updated annually in the Federal Register.

VR 460-03-2.6108.2. More Liberal Methods of Treating Resources under § 1902(r)(2) of the Act.

§ 1902(f) State Non-§ 1902(f) State

§ 1. Resources to meet burial expenses.

Resources set aside to meet the burial expenses of an applicant/recipient or that individual's spouse are excluded from countable assets. In determining eligibility for

benefits for medically needy individuals, disregarded from countable resources is an amount not in excess of \$2,500 for the individual and an amount not in excess of \$2,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by:

1. The face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources; and

2. The amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses.

§ 2. Life rights.

Life rights to real property are not counted as a resource.

§ 3. Reasonable effort to sell.

A. For purposes of this section "current market value" is defined as the current tax assessed value. If the property is listed by a realtor, then the realtor may list it at an amount higher than the tax assessed value. In no event, however, shall the realtor's list price exceed 150% of the assessed value.

B. A reasonable effort to sell is considered to have been made:

1. As of the date the property becomes subject to a realtor's listing agreement if:

a. It is listed at a price at current market value, and

b. The listing realtor verifies that it is unlikely to sell within 90 days of listing given the particular circumstances involved (e.g., owner's fractional interest; zoning restrictions; poor topography; absence of road frontage or access; absence of improvements; clouds on title, right of way or easement; local market conditions);

2. When at least two realtors refuse to list the property. The reason for refusal must be that the property is unsaleable at current market value. Other reasons for refusal are not sufficient; or

3. When the applicant has personally advertised his property at or below current market value for 90 days by use of a "Sale By Owner" sign located on the property and by other reasonable efforts such as newspaper advertisements, or reasonable inquiries with all adjoining landowners or other potential interested purchasers.

C. Notwithstanding the fact that the recipient made a reasonable effort to sell the property and failed to sell it, and although the recipient has become eligible, the recipient must make a continuing reasonable effort to sell by:

1. Repeatedly renewing any initial listing agreement until the property is sold. If the list price was initially higher than the tax-assessed value, the listed sales price must be reduced after 12 months to no more than 100% of the tax-assessed value.

2. In the case where at least two realtors have refused to list the property, the recipient must personally try to sell the property by efforts described in subdivision B 3 of this section, for 12 months.

3. In the case of recipient who has personally advertised his property for a year without success (the newspaper advertisements, "for sale" sign, do not have to be continuous; these efforts must be done for at least 90 days within a 12 month period), the recipient must then

a. Subject his property to a realtor's listing agreement at price or below current market value; or

b. Meet the requirements of subdivision B 2 of this section which are that the recipient must try to list the property and at least two realtors refuse to list it because it is unsaleable at current market value; other reasons for refusal to list are not sufficient.

D. If the recipient has made a continuing effort to sell the property for 12 months, then the recipient may sell the property between 75% and 100% of its tax assessed value and such sale shall not result in disqualification under the transfer of property rules. If the recipient requests to sell his property at less than 75% of assessed value, he must submit documentation from the listing realtor, or knowledgeable source if the property is not listed with a realtor, that the requested sale price is the best price the recipient can expect to receive for the property at this time. Sale at such a documented price shall not result in disqualification under the transfer of property rules. The proceeds of the sale will be counted as a resource in determining continuing eligibility.

E. Once the applicant has demonstrated that his property is unsaleable by following the procedures in subsection B of this section the property is disregarded in determining eligibility starting the first day of the month in which the most recent application was filed, or up to three months prior to this month of application if retroactive coverage is requested and the applicant met all other eligibility requirements in the period. A recipient must continue his reasonable efforts to sell the property as required in Section C above.

§ 4. Automobiles.

Ownership of one motor vehicle does not affect eligibility. If more than one vehicle is owned, the individual's equity in the least valuable vehicle or vehicles must be counted. The value of the vehicles is the wholesale value listed in the National Automobile Dealers Official Used Car Guide (NADA) Book, Eastern Edition. In the event the vehicle is not listed, the value assessed by the locality for tax purposes may be used. The value of the additional motor vehicles is to be counted in relation to the amount of assets that could be liquidated that may be retained.

§ 5. Life, retirement, and other related types of insurance policies.

Life, retirement, and other related types of insurance policies with face values totaling \$1,500 or less on any one person 21 years old and over are not considered resources. When the face values of such policies of any one person exceeds \$1,500, the cash surrender value of the policies is counted as a resource.

§ 6. Resource exemption for Aid to Dependent Children categorically and medically needy (the Act §§ 1902(a)(10)(A)(i)(III), (IV), (VI), (VII); §§ 1902(a)(10)(A)(ii)(VIII), (IX); § 1902(a)(10)(C)(i)(III).

For ADC-related cases, both categorically and medically needy, any individual or family applying for or receiving assistance may have or establish one interest-bearing savings account per assistance unit not to exceed \$5,000 at a financial institution if the applicant, applicants, recipient or recipients designate that the account is reserved for one of the following purposes: (i) paying for tuition, books, and incidental expenses at any elementary, secondary or vocational school or any college or university; (ii) making down payment on a primary residence; or (iii) business incubation. Any funds deposited in the account, and any interest earned thereon, shall be exempt when determining eligibility for medical assistance for so long as the funds and interest remain on deposit in the account. Any amounts withdrawn and used for any of the purposes stated in this section shall be exempt. For purposes of this section, "business incubation" shall mean the initial establishment of a commercial operation which is owned by a member of the Medicaid assistance unit. The net worth of any business owned by a member of the assistance unit shall be exempt from consideration so long as the net worth of the business is less than \$5,000.

§ 7. Disregard of resources.

The Commonwealth of Virginia will disregard all resources for qualified children covered under §§ 1902(a)(10)(A)(i)(III) and 1905(n) of the Social Security Act.

VA.R. Doc. No. R95-244; Filed January 12, 1995, 4:06 p.m.

Final Regulations

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

REGISTRAR'S NOTICE: The amendments to the following regulation are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Department of Transportation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 385-01-4. Rules and Regulations for the Administration of Waysides and Rest Areas.

Statutory Authority: §§ 33.1-12(3) and 33.1-218 of the Code of Virginia.

Effective Date: March 8, 1995.

Summary:

The Rules and Regulations for the Administration of Waysides and Rest Areas list behavior or activities which the department may allow or prohibit in waysides and rest areas on state-owned right of way adjacent to the highways.

The Commonwealth Transportation Board promulgated these regulations to become effective on January 21, 1987, in accordance with the provisions of the Administrative Process Act in effect at that time. Due to changes in state law, and the text verification process with the Registrar of Regulations, this regulation is being published at this time.

VR 385-01-04. Rules and Regulations for the Administration of Waysides and Rest Areas.

§ 1. Waysides and rest areas.

§ 1. A. Waysides identified by name and without lights shall be open from 8 a.m. to one hour after sunset. Areas having security lighting will be open at all times.

§ 2. B. When an area is posted for limited parking, the operator of each vehicle may be required to sign a register setting forth the time of arrival.

§ 3. C. When posted, parking shall be limited to the period specified.

§ 4. D. No overnight parking will be permitted.

§ 5. E. Camping is not permitted at any time.

§ 6. No vehicle shall be parked in such manner as to occupy more than one marked parking space.

F. Sleeping in any section of the rest area building is not permitted at any time.

G. No vehicle shall be parked in such a manner as to occupy more than one marked parking space.

§ 7. H. No domestic animals shall be permitted to go at large. Dogs must be kept on lease *leash* and shall not be taken into any shelter or other building ; ; *guide, hearing, or service dogs as defined by the Code of Virginia are an exception to this rule.*

§ 8. I. No person shall pick any flowers, foliage, or fruit, or cut, break, dig up, or in any way mutilate or injure any tree, shrub, plant, grass, turf, railing, seat, fence, structure, or anything within this area ; ; or cut, carve, paint, mark or paste on any tree, stone, fence, wall, building, monument or other object therein, any bill, advertisement, or inscription whatsoever.

§ 9. J. No person shall disturb or injure any bird, birds' nests ; or eggs, or any squirrel or other animal within this area.

§ 10. K. No person shall dig up ; or remove any dirt, stones, rock or other thing ; ; make any excavation, quarry any stone or lay or set off any blast ; ; or cause or assist in doing any of said things within this area without the special order or license of the Commissioner.

§ 11. L. No threatening, abusive, boisterous, insulting or indecent language or gesture shall be used within this area. Nor shall any oration, or other public demonstration be made, unless by special authority of the commissioner.

§ 12. M. No person shall offer any article or thing for sale within this area except by permission of the ~~State Highway and Transportation Board~~ *Commonwealth Transportation Board* .

§ 13. N. No person shall bathe or fish in any waters within this area, except in such places and subject to such regulations as the commissioner may, from time to time, specially designate by a public notice set up for that purpose within the same.

§ 14. O. No person shall light, kindle or use any fire within this area, except at fireplaces designed and built for such purposes and the person or persons building a fire therein will be responsible for having it completely extinguished before leaving it.

§ 15. P. No person shall discharge or set off within this area, any firearms, firecrackers, torpedoes, rockets ; or other fireworks, except by permit from the commissioner.

§ 16. Q. No bottles, broken glass, ashes, waste paper, or other rubbish shall be left within this area, except at such places as may be provided for the same.

§ 17. R. No automobile or other *motor* vehicle shall be taken into or driven upon this area, except upon such drives and subject to such regulations as the commissioner may, from time to time, designate by a public notice set

up for that purpose within the same.

§ 18. Sleeping in any section of the rest area building is not permitted at any time.

§ 19. S. Any person violating any of the preceding rules and regulations shall be guilty of a misdemeanor and, upon conviction, be fined not less than five dollars nor more than \$100 for each offense.

VA.R. Doc. No. R95-226; Filed January 9, 1995, 3:26 p.m.

* * * * *

REGISTRAR'S NOTICE: The amendments to the following regulation are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Department of Transportation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 385-01-10. General Rules and Regulations of the Commonwealth Transportation Board.

Statutory Authority: § 33.1-12(3) of the Code of Virginia.

Effective Date: March 8, 1995.

Summary:

The "General Rules and Regulations of the Commonwealth Transportation Board" identify the conditions under which land use permits may be granted, conditions under which permits are not needed, and the manuals which govern or restrict activities carried out by permit.

These regulations also restrict modifications to the flow of water on rights of way, and the placement of structures on rights of way, as well as the types of activities which can take place on rights of way, including bridges. The Commonwealth Transportation Board, the commissioner, or his designee have the authority to determine if the proposed activity is in conformance with public safety, or if it interferes with highway maintenance. The amendments to the regulations correct obsolete nomenclature.

Rules and regulations issued by the board and referred to in § 14 have been issued separately under their own VR numbers. "Rules and Regulations for the Administration of Waysides and Rest Areas" is designated VR 385-01-4, and "Rules and Regulations for the Administration of Parking Lots and Environs" is designated VR 385-01-11. The General Rules refer to two documents, the Land Use Permit Manual and the Minimum Standards of Entrance to State Highways, which have also been filed separately under the Administrative Process Act as VR 385-01-6 and VR

385-01-16.

VR 385-01-10. General Rules and Regulations of the Commonwealth Transportation Board.

§ 1. Definitions.

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

(a) COMMISSION "Board" means the State Highway and Transportation Commission Commonwealth Transportation Board, Commonwealth of Virginia.

(b) "Commissioner" means the Chairman Vice-Chairman of the State Highway and Transportation Commission Commonwealth Transportation Board for the Commonwealth of Virginia.

(c) "Commonwealth" means the Commonwealth of Virginia.

(d) "Department" means the Department of Highways and Transportation, Commonwealth of Virginia.

(e) "Right of way" means that property within the entire area of every way or place of whatever nature within the system of state highways under the ownership, control, or jurisdiction of the ~~commission board~~ or department, which is open or which is to be opened within the future for the use of the public for purposes of travel in the Commonwealth. The area set out above includes not only the traveled portion but the entire area within and without the traveled portion, from boundary line to boundary line, and also all parking and recreation areas which are under the ownership, control, or jurisdiction of the ~~commission board~~ or department.

(f) "System of state highways" means all highways and roads under the ownership, control, or jurisdiction of the ~~commission board~~ including, but not limited to, the primary, secondary, and interstate systems.

§ 2. Rules and Regulations: Work performed on real property of the board.

No work of any nature shall be performed on any real property under the ownership, control or jurisdiction of the ~~commission board~~, including but not limited to, the right of way of any highway in the system of state highways until written permission is first obtained from the commissioner. Written permission, under this section, is granted by way of permit, except that the letting of a contract by and between the department and any other party, grants to that party automatically the permission spoken of in this section for the area under contract, unless otherwise stated in the contract. The Land Use Permit Manual (VR 385-01-16) shall set forth specific requirements for such permits.

Final Regulations

§ 3. *Permit authority and application procedure.*

All permits, except as hereinafter provided, must be in writing and signed by the person duly authorized by the commissioner. Except as hereinafter provided, application for all permits shall be made through the resident engineer of the county where the work is to be performed.

§ 4. *Denial or revocation of permit.*

A permit may be denied any applicant, and all permits issued by the ~~commission board~~ or the commissioner may be revoked whenever, in the opinion of the commissioner, safety, use, or maintenance of the highway so requires.

§ 5. *Compliance with department manuals.*

No land use permit shall be issued until the applicant has complied with the restrictions, specifications, and fee requirements set forth in the Land Use Permit Manual (VR 385-01-16), where applicable, and pursuant to the ~~Manual of Minimum Entrance Standards to State Highways~~ *Minimum Standards of Entrance to State Highways*, (VR 385-01-6) when applicable. The manuals referred to are those prepared and published by the ~~commission board~~ or commissioner and kept on file in the central, district, and resident offices of the department, changes to which must be adopted or ratified by the ~~commission board~~.

§ 6. *Waivers for damage or liability requirements.*

Applicants to whom permits are issued shall at all times indemnify and save harmless the ~~commission board~~, members of the ~~commission board~~, the Commonwealth, and all Commonwealth employees, agents, and officers, from responsibility, damage, or liability arising from the exercise of the privileges granted in such permit.

§ 7. *Relocation of structures within right of way.*

Any structure placed upon or within the right of way pursuant to a permit issued by the ~~commission board~~ or commissioner shall be relocated or removed whenever ordered by the commissioner. Such relocation or removal shall be accomplished at no expense to the Commonwealth, unless the department agrees or has agreed otherwise.

§ 8. *Use of right of way.*

No person, firm, or corporation shall use or occupy the right of way of any highway for any purpose except travel thereon except as may be authorized by the ~~commission board~~ or commissioner, either in the Land Use Permit Manual (VR 385-01-16) or as provided by law.

§ 9. *Activities occurring on bridges.*

No person, firm, or corporation shall stand or park a vehicle of any description on any bridge forming a part of

the system of state highways unless authorized by the commissioner. No person shall fish or seine from any such bridge except when facilities are provided for such purposes as set out in § 33.1-207 of the Code of Virginia. No person, firm or corporation shall use any such bridge as a wharf from which to load or unload any vehicle, nor as a place of deposit for any property, nor for any other purpose except for crossing. Nor shall the master or owner of any vessel make it fast to or lay it alongside such bridge. Provided, however, this section shall not apply to highway maintenance vehicles or vessels.

§ 10. *Use or abuse of real or personal property on state-owned right of way.*

No person, firm, or corporation shall, without the consent of the commissioner, remove, injure, destroy, break, deface, or in any way tamper with any property, real or personal, which is growing or has been placed on the right of way of any highway within the system of state highways by or with the consent of the ~~commission board~~ or commissioner.

§ 11. *Placement of mail boxes and newspaper boxes on state-owned right of way.*

Mail boxes and newspaper boxes may be placed on the right of way of any system of state highways without a permit, but shall be so placed as not to, in the opinion of the commissioner, interfere with the safety, maintenance, and use of the highway. Such opinion is to be found in the department's Land Use Permit Manual (VR 385-01-16) .

§ 12. *Flow of water on state-owned right of way.*

No person, firm, or corporation may cause water from any source to flow upon the right of way of any highway within the system of state highways, nor shall any person, firm, or corporation cause any increase of the water, at present, lawfully on the right of way of any highway or concentrate the flow of water upon the right of way of any highway in the system of state highways without the written consent of the resident engineer for the department.

§ 13. *Placement of roads, railroads, or tracks on state highway system.*

No road, railroad, or tracks of any description shall be laid along, upon, or across any portion of a highway in the system of state highways without the written consent of the commissioner. The Land Use Permit Manual (VR 385-01-16) shall set forth specific requirements for said written consent.

§ 14. *Status of parking, picnic, or recreational areas as part of the state highway system.*

All areas maintained by the department for parking, picnics, or recreational purposes shall be considered as part of the system of state highways for the purposes of

these General Rules and regulations of the ~~commission~~ board. The rules or regulations governing each area will be duly posted in that area. No person, firm, or corporation shall violate any of these rules or regulations, or both, nor shall they deface, injure, knock down, destroy, or remove any such signs regularly posted.

§ 15. Board authority to regulate entrances from adjacent property to right of way of highways within the state highway system.

The ~~commission~~ board, under § 33.1-12(3) of the Code of Virginia, reserves the power to regulate entrances from adjacent property upon the right of way of any highway within the system of state highways. No entrance of any nature shall be made, built, or constructed upon the right of way of any highway within the system of state highways until the location has been determined in the opinion of the appropriate officer of the department to be acceptable from a public safety standpoint, and further, until approval has been granted by the department. The design and construction of such entrances as approved by the commissioner pursuant to § 33.1-198 of the Code of Virginia, must comply with the ~~Manual of Minimum Entrance Standards to State Highways~~ *Minimum Standards of Entrance to State Highways (VR 385-01-6)* and the Land Use Permit Manual (*VR 385-01-16*) where the same are applicable.

§ 16. Owner's liability for expenses associated with removal of prohibited objects.

If any object or objects are placed on, above, or under the right of way of any highway within the system of state highways in violation of the preceding sections, and the owner, after 10 days notice, refuses to remove the object or objects, the commissioner may cause same to be removed at owner's expense. This shall not be interpreted to prevent the commissioner from immediately removing any object or objects which, in his opinion, must be removed for public safety, use, or maintenance of any highway within the system of state highways. Removal in this instance shall also be at owner's expense.

§ 17. Placement of airport or heliport facilities.

No airport runways, heliports, etc., either private or commercial, shall be placed adjacent to highway right of way in such a manner as to impede the safe flow of vehicular traffic. Runways, etc., shall be placed a proper distance to allow a minimum glide slope for aircraft of 3° approaching said runway, or at a height over the roadway of 30 feet, whichever is the greater. All airports or heliports, or both, proposed in the vicinity of highway rights of way shall take these minimum road clearances into consideration when planning the location of the end ~~of~~ of their runways.

§ 18. Penalties for violations.

Any person, firm, or corporation violating any of the

preceding sections shall be civilly liable to the Commonwealth for any and all expense or damage, or both, incurred by the department and shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided for in § 33.1-19 of the Code of Virginia.

V.A.R. Doc. No. R95-227; Filed January 9, 1995, 3:26 p.m.

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REGISTRAR'S NOTICE: The amendments to the following regulation 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 Transportation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 385-01-11. Rules and Regulations for the Administration of Parking Lots and Environs.

Statutory Authority: §§ 33.1-12(3) and 46.2-1223 of the Code of Virginia.

Effective Date: March 8, 1995.

Summary:

The Rules and Regulations for the Administration of Parking Lots and Environs list behavior or activities which the department may allow or prohibit in parking lots or the surrounding vicinities on state-owned right of way adjacent to the highways.

The Commonwealth Transportation Board promulgated these regulations to become effective on November 1, 1974, in accordance with the provisions of the Administrative Process Act in effect at that time. Since these regulations have never been published before, the Registrar requested that a regulatory package be prepared.

VR 385-01-11. Rules and Regulations for the Administration of Parking Lots and Environs.

§ 1. Parking lots and environs.

§ 1- A. While in this area all persons shall be subject to such regulations as the commissioner may designate by posted signs or public notice posted within the area.

§ 2- B. No vehicle shall be parked in such a manner as to occupy more than one parking space.

§ 3- C. No person shall paste, attach or place on any vehicle parked in this lot any bill, advertisement or inscription whatsoever.

§ 4- D. No bottles, broken glass, ashes, waste paper, or

Final Regulations

other rubbish shall be left within this area except in such receptacles as may be provided for the same.

§ 5. E. No person shall pick any flowers, foliage, or fruit ; ; or cut, break, dig up ; or in any way mutilate or injure any tree, shrub, plant, grass, turf, fence, structure, or anything within this area ; ; or cut, carve, paint, mark, paste, or in any way attach on any tree, stone fence, wall, building, or other object therein, any bill, advertisement, or inscription whatsoever.

§ 6. F. No person shall disturb or injure any bird, birds' nest, or eggs, or any squirrel or other animal within this area.

§ 7. G. No threatening, abusive, boisterous, insulting or indecent language, or gesture shall be used within this area; furthermore, no oration or other public demonstration be made, except by permit from the commissioner.

§ 8. H. No person shall offer any article or thing for sale within this area except by permission of the commissioner.

§ 9. I. No person shall light, kindle, or use any fire within this area.

§ 10. J. No person shall discharge or set off within this area, any firearms or fireworks, except by permit from the commissioner.

§ 11. K. Any person violating any of the preceding rules and regulations shall be guilty of a misdemeanor and, upon conviction, be fined not less than five dollars nor more than \$100 for each offense.

V.A.R. Doc. No. R95-228; Filed January, 9, 1995, 3:27 p.m.

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REGISTRAR'S NOTICE: The amendments to the following regulation are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved, and in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Transportation will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 385-01-13. Rules and Regulations Governing Controlling Outdoor Advertising and Directional and Other Signs and Notices .

Statutory Authority: §§ 33.1-12, 33.1-351, 33.1-370 and

33.1-371 of the Code of Virginia.

Effective Date: March 8, 1995.

Summary:

The Outdoor Advertising Regulations provide criteria which the department uses to regulate the size, type, spacing, and location of advertising, directional and other signs and notices. The regulations apply to signs of all types, such as commercial and informational signs.

The Commonwealth Transportation Board promulgated these regulations on April 1, 1976, in accordance with the provisions of the Administrative Process Act in effect at that time.

VR 385-01-13. Rules and Regulations Controlling Outdoor Advertising and Directional and Other Signs and Notices.

PART I. OUTDOOR ADVERTISING IN ZONED AND UNZONED COMMERCIAL AND INDUSTRIAL AREAS.

§ 1.1. Definitions.

For the purposes of these regulations, the following definitions shall apply:

"Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this Commonwealth, except that none of the following activities shall be considered commercial or industrial:

1. *Outdoor advertising structures.*
2. *Agricultural, forestry, grazing, farming, and related activities including, but not limited to, wayside fresh produce stands.*
3. *Transient or temporary activities.*
4. *Activities not visible from the main-traveled way.*
5. *Activities more than 300 feet from the nearest edge of the right of way.*
6. *Activities conducted in a building principally used as a residence.*
7. *Railroad tracks and minor sidings.*

"National highway system" means the federal-aid highway system described in subsection (b) of § 103 of Title 23, United States Code, and regulations adopted pursuant to that law, or as defined in § 33.1-351 of the Code of Virginia.

"Unzoned commercial or industrial areas" means those areas on which there is located one or more structures devoted to a business or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward 500 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition.

"Zoned commercial or industrial areas" means those areas which are reserved for business, commerce, or trade pursuant to a comprehensive state or local zoning ordinance or regulation.

All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel to the edge or pavement of the highway.

~~§ 1-1.~~ 1.2. ~~Applicability of regulations.~~ Zoning requirements.

A. In zoned commercial and industrial areas where the locality has regulations governing the size, spacing and lighting of signs, such regulations shall control and govern when so certified to the appropriate federal authority by the commissioner.

B. In all other zoned and unzoned commercial and industrial areas, the criteria set forth in this part shall apply.

~~§ 1-2.~~ 1.3. Size of signs.

A. The maximum area for any advertisement shall be 1,200 square feet with a maximum height of 25 feet and maximum length of 60 feet, inclusive of any border and trim but excluding ornamental base or apron supports and other structural members.

B. The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the entire advertisement.

C. A sign structure may contain one or two advertisements per facing, not to exceed the maximum area.

D. Double-faced structures will be permitted with the maximum area being allowed for each facing.

~~§ 1-3.~~ 1.4. Spacing of signs.

A. Interstate highway and freeways on the *national highway or federal-aid primary system systems*.

1. No two structures shall be spaced less than 500 feet apart.

2. No structure may be located within 500 feet of an interchange, or intersection at grade, or rest area (measured along the interstate or freeway from the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way).

B. Nonfreeway federal-aid primary ~~route~~ or *national highway system routes*.

1. Outside of municipalities. No two structures shall be spaced less than 300 feet apart.

2. Inside municipalities. No two structures shall be spaced less than 100 feet apart.

C. Explanatory notes.

1. Official and "on premise" signs, as defined in § 131(c) of Title 23, United States Code, shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

2. The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.

~~§ 1-4.~~ 1.5. Lighting.

Signs may be illuminated, subject to the following restrictions:

1. Signs which contain, include, or are illuminated by any flashing intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.

2. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the interstate or primary highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

3. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

4. All such lighting shall be subject to any other provisions relating to lighting of signs presently applicable to all highways under the jurisdiction of the Commonwealth.

~~§ 1-5.~~ 1.6. ~~Exceptions.~~ Zoning requirements - interstate highways.

Final Regulations

Notwithstanding subsections A and B of § 1-1 § 1.1 A and B, no signs, advertisements or advertising structures may be erected, maintained or displayed adjacent to interstate highways except:

1. In zoned commercial or industrial areas within the boundaries of incorporated municipalities as such boundaries existed on September 21, 1959.
2. In other areas zoned commercial or industrial as of September 21, 1959.

§ 1-6. 1.7. Certification requested of comprehensive zoning

At any time that a locality adopts a comprehensive zoning ordinance which also controls outdoor advertising including size, lighting and spacing controls in zoned commercial and industrial areas, the regulation of signs under these rules and regulations shall be transferred from subsection B of § 1-1 to subsection A of § 1-1 § 1.1 B to § 1.1 A when so certified to the appropriate federal authority by the commissioner. Upon the written request of such locality or any other interested party, the commissioner will review such certification request for compliance with this section.

At such time as the commissioner determines that such locality no longer has a comprehensive zoning ordinance which also controls outdoor advertising including size, lighting and spacing controls in zoned commercial and industrial areas, such certification shall be withdrawn and the regulation of signs under these rules and regulations shall be retransferred from subsection A of § 1-1 to subsection B of § 1-1 § 1.1 A to § 1.1 B.

§ 1-7. Definitions:

For the purpose of these regulations, the following definitions shall apply:

"Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this Commonwealth, except that none of the following activities shall be considered commercial or industrial:

1. Outdoor advertising structures.
2. Agricultural, forestry, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.
3. Transient or temporary activities.
4. Activities not visible from the main traveled way.
5. Activities more than 300 feet from the nearest edge of the right of way.
6. Activities conducted in a building principally used

as a residence.

7. Railroad tracks and minor sidings:

"Zoned commercial or industrial areas" means those areas which are reserved for business, commerce, or trade pursuant to a comprehensive state or local zoning ordinance or regulation.

"Unzoned commercial or industrial areas" means those areas on which there is located one or more permanent structures devoted to a business or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward 500 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition.

All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel to the edge or pavement of the highway.

PART II. DIRECTIONAL AND OTHER OFFICIAL SIGNS AND NOTICES (LOCATED OFF HIGHWAY RIGHT OF WAY).

§ 2.1. Definitions.

The following definitions apply to directional and other official signs and notices which are erected and maintained within 660 feet of the nearest edge of the right of way of interstate and federal-aid primary system, and national highway systems, which are not erected on the highway right of way and which are visible from the main-traveled way of the system.

"Sign" means an outdoor sign, light, display device, figure, painting, drawing, message placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the Interstate or Federal-Aid Primary Highway.

"Main-traveled way" means the through traffic lanes of the highway, exclusive of frontage roads, auxiliary lanes and ramps.

"Interstate system" means the National System of Interstate and Defense Highways, described in Section 103(e) of Title 23, United States Code.

"Primary system" means the Federal-Aid Highway System described in Section 103(b) of Title 23, United States Code.

"Erect" means to construct, build, raise, assemble, place,

affix, attach, create, paint, draw, or in any other way bring into being or establish.

"Maintain" means to allow to exist.

"Scenic area" means any area of particular scenic beauty or historical significance as determined by the federal, state, or local officials having jurisdiction thereof, and includes interests in land which has been acquired for the restoration, preservation and enhancement of scenic beauty.

"Parkland" means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

"Federal or state law" means a federal or state constitutional provision or statute, or an ordinance, rule or regulation enacted or a political subdivision of a State pursuant to a federal or state constitution or statute.

"Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

"Freeway" means a divided arterial highway for through traffic with full control of access.

"Rest area" means an area or site established and maintained within or adjacent to the highway right of way by or under public supervision or control for the convenience of the traveling public.

"Directional and other official signs and notices" includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

"Official signs and notices" means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs.

"Public utility signs" means warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.

"Service club and religious notices" means signs and notices whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services, which signs do not exceed eight square feet in area.

"Public service signs" means signs located on school bus

stop shelters, which signs:

1. Identify the donor, sponsor, or contributor of said shelter;
2. Contain safety slogans or messages, which shall occupy not less than 60% of the area of the sign;
3. Contain no other message;
4. Are located on school bus shelters which are authorized or approved by city, county or state law, regulation or ordinance, and at places approved by the city, county, or state agency controlling the highway involved; and
5. May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.

"Directional signs" means signs containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

"State" means any one of the 50 states, the District of Columbia, or Puerto Rico.

"A single route" means one numbered highway or a combination of numbered highways affording a means of reaching an advertised activity from any one point.

"Directional and other official signs and notices" means only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

"Directional signs" means signs containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

"Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

"Federal or state law" means a federal or state constitutional provision or statute, or an ordinance, rule or regulation enacted or adopted by a state or federal agency or a political subdivision of a state pursuant to a federal or state constitution or statute.

"Freeway" means a divided arterial highway for

Final Regulations

through traffic with full control of access.

“Interstate system” means the national system of interstate and defense highways, described in § 103(e) of Title 23, United States Code.

“Maintain” means to allow to exist.

“Main-traveled way” means the through traffic lanes of the highway, exclusive of frontage roads, auxiliary lanes and ramps.

“National highway system” means the federal-aid highway system described in subsection (b) of § 103 of Title 23, United States Code, and regulations adopted pursuant to that law, or as defined in § 33.1-351 of the Code of Virginia.

“Official signs and notices” means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs.

“Parkland” means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

“Primary system” means the federal-aid highway system described in § 103(b) of Title 23, United States Code.

“Public service signs” means signs located on school bus stop shelters, which:

- 1. Identify the donor, sponsor, or contributor of said shelter;*
- 2. Contain safety slogans or messages, which shall occupy not less than 60% of the area of the sign;*
- 3. Contain no other message;*
- 4. Are located on school bus shelters which are authorized or approved by the city, county, or state agency controlling the highway involved; and*
- 5. May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.*

“Public utility signs” means warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.

“Rest area” means an area or site established and maintained within or adjacent to the highway right of way by or under public supervision or control for the convenience of the traveling public.

“Scenic area” means any area of particular scenic beauty or historical significance as determined by the federal, state, or local officials having jurisdiction thereof, and includes interests in land which has been acquired for the restoration, preservation, and enhancement of scenic beauty.

“Service club and religious notices” means signs and notices whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services, which signs do not exceed eight square feet in area.

“Sign” means an outdoor sign, light, display device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the interstate or federal-aid primary highway.

“Single route” means one numbered highway or a combination of numbered highways affording a means of reaching an advertised activity from any one point.

“State” means any one of the 50 states, the District of Columbia, or Puerto Rico.

“Visible” means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

§ 2.2. Prohibited signs.

The following signs are prohibited:

1. Signs advertising activities that are illegal under federal or state laws or regulations in effect at the location of those signs or at the location of those activities.
2. Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruction or interfere with the driver's view of approaching, merging, or intersecting traffic.
3. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
4. Obsolete signs.
5. Signs which are structurally unsafe or in disrepair.
6. Signs which move or have any animated or moving

parts.

7. Signs located in rest area, parklands or scenic areas.

8. Signs that identify ancillary sites, areas, features or activities.

§ 2.3. Size.

A. No sign shall exceed the following limits:

1. Maximum area – 150 square feet
2. Maximum height – 20 feet.
3. Maximum length – 20 feet.

B. All dimensions include border and trim, but exclude supports.

§ 2.4. Lighting.

Signs may be illuminated, subject to the following:

1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.
2. Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an interstate or primary highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.
3. No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.

§ 2.5. Spacing.

A. Each location of a sign must be approved by the state Department of Transportation.

B. No sign may be located within 2,000 feet of an interchange, or intersection at grade along the interstate system or other freeways (measured along the interstate or freeway from the nearest point of the beginning or ending or pavement widening at the exit from or entrance to the main-traveled way).

C. No sign may be located within 2,000 feet of a rest area, parkland, or scenic area.

D. 1. No two signs facing the same direction of travel shall be spaced less than one mile apart;

2. Not more than three signs pertaining to the same

activity and facing the same direction of travel may be erected along a single route approaching the activity;

3. Signs located adjacent to the interstate system shall be within 75 air miles of the activity; and

4. Signs located adjacent to the primary system shall be within 50 air miles of the activity.

§ 2.6. Message content.

The message on signs shall be limited to the identification of the approved site, feature, area or activity and directional information useful to the traveler in locating the site, area, feature, or activity, such as mileage, route number or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.

§ 2.7. Administration of ~~regulation~~ regulations.

A. The Commonwealth Transportation Commissioner, under § 33.1-352 of the Code of Virginia, has the duty to administer and enforce provisions of Chapter 7 (§ 33.1-351 et seq.) of Title 33.1 of the Code of Virginia. The ~~commission board~~ and ~~be the Commonwealth Transportation Commissioner~~ recognize that there are other state agencies which have as their primary purpose the control and administration of the type of specific unique phenomena or site, for which a directional sign application may be made, that have valuable experience and knowledge in the matters contained in the definition of "directional signs." Therefore, the following state agencies are hereby recognized for the purpose of making recommendations whether a site, area, agency, or phenomena, falls within the definition of "directional signs" set forth in § 2.1:

Department of Conservation and Recreation

~~Historic Landmarks Board~~ Department of Historic Resources

~~State Library and Archives (Historical Publication Division)~~ The Library of Virginia

The recommendations must be based upon criteria presently utilized or hereinafter adopted by one of these agencies.

After the recommendation is received the commissioner must employ the following standards in addition to those which appear elsewhere to ascertain whether a site, area, agency, or phenomena is eligible for directional signs.

1. ~~Publicly~~ That publicly or privately owned activities or attractions eligible for directional signing are limited to the following: natural phenomena; scenic attractions; historic, educational, cultural, scientific, and religious sites; and areas naturally suited for

Final Regulations

outdoor recreation.

2. Any of the above must be nationally or regionally known as determined by the commissioner.

3. Any of the above must be of outstanding interest to the traveling public as determined by the Commonwealth Transportation Commissioner.

The area, site, agency, or phenomena seeking to qualify for "directional signs" shall be the principal area, site, agency, or phenomena which would appear on proposed sign and not ancillary to the message which would appear on the sign.

§ 2.8. Final determination.

4. The commissioner shall make the final determination whether a site, area, agency or phenomena is eligible for directional signs. The signs must conform to the requirements and standards set out herein in Part II.

PART III.

SIGNS ON RIGHTS OF WAY OF THE INTERSTATE AND OTHER CONTROLLED ACCESS HIGHWAYS.

§ 3.1. Placement of signs on the right of way of the interstate and other controlled access highways:

The following criteria provides for the placement of signs on the right of way of the interstate and other controlled access highways:

1. Within the seven major metropolitan areas of the state, signing will be limited to cultural, historical and recreational facilities that are major traffic generators and are within view or directly accessible from an interchange.

2. In rural areas consideration will be given to the cultural, historical and recreational facilities directly accessible from an interchange and classified as major traffic generators.

3. To receive consideration as a historic site, the following conditions must be met:

a. The historic place in question must be recognized by the Virginia Historic Landmarks Association.

b. It must be open to the public at least five days per week on a year-round basis.

c. It must be maintained by a foundation, the state, federal government or at other public expense, or nonprofit private expense.

d. It must be within 10 miles of the interchange at which the sign is to be placed.

4. Athletic or other events predicted to create major

traffic movements on a temporary basis may have special signs erected for the duration of the activity.

5. These rules and regulations do not apply to official Traffic Control devices placed, or erected, by authority of public body or officials having jurisdiction for the purpose of regulating, warning or guiding traffic.

The original text of Part III pertains to traffic signs and other markers, which are exempt from the Administrative Process Act. The department has filed a replacement to this part as VR 385-01-63 ("Supplemental Signing Criteria") to comply with provisions of the Virginia Register Act (§ 9-6.15 et seq. of the Code of Virginia).

PART IV.

CONTROL AND CONTINUANCE OF NONCONFORMING SIGNS, ADVERTISEMENTS, AND ADVERTISING STRUCTURES.

§ 4.1. Definitions.

The definitions set out in § 33.1-351 of the Code of Virginia and the following definitions shall apply.

"Nonconforming sign" means one which was lawfully erected but which does not comply with the provisions of state law or state regulations passed at a later date or which later fails to comply with state law or state regulations due to changed conditions.

An example of changed conditions would be a sign or advertisement lawfully in existence in a commercial area which at a later date becomes noncommercial and thus required to be protected, or a sign or advertisement lawfully erected on a federal-aid secondary highway later upgraded to a federal-aid primary highway. Illegally erected or maintained signs or advertisements are not nonconforming signs.

"Nonconforming sign-grandfather clause" means a sign lawfully in existence on certain dates or as specified in the state-federal agreement erected in a commercial or industrial area which does not conform to size, lighting or spacing criteria.

"Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

"Nonconforming sign" means one which was lawfully erected but which does not comply with the provisions of state law or state regulations passed at a later date or which later fails to comply with state law or state regulations due to changed conditions.

An example of changed conditions would be a sign or advertisement lawfully in existence in a commercial area which at a later date becomes noncommercial and thus required to be protected, or a sign or advertisement lawfully erected on a federal-aid secondary highway later

upgraded to a federal-aid primary highway. Illegally erected or maintained signs or advertisements are not nonconforming signs.

"Nonconforming sign - grandfather clause" means a sign lawfully in existence on certain dates or as specified in the state-federal agreement erected in a commercial or industrial area which does not conform to size, lighting, or spacing criteria.

§ 4.2. ~~General~~ Criteria for the maintenance and continuance of a nonconforming sign, advertisement or advertising structure.

A. To be classified as a nonconforming sign or structure, such sign or structure must have been in lawful existence on the effective date of the state law or regulation or changed condition and must continue to be lawfully maintained.

B. To be allowed to continue as nonconforming, a sign or structure must remain substantially unchanged from its condition as of the effective date of the state law or regulations or changed condition.

1. Replacement, extension, or enlargement of the sign or structure is a substantial change in the existing use.

2. The change of location or height of such sign or structure is a substantial change in the existing use.

3. A change of the message content is not a substantial change in existing use. In the event a sign has been blank for a period of 18 consecutive months, the owner will be given written notice of 120 days to display a message on or remove such sign structure. In the event a message is not displayed on the sign structure within 120 days from the postdate of the aforementioned written notice, the permit shall be cancelled.

4. Rebuilding, or re-erecting the sign or structure, is a substantial change in existing use; if such rebuilding, or re-erection expenses exceed 60% of the current replacement cost new of the entire sign or structure.

EXCEPTION:

If it can be demonstrated to the satisfaction of the commissioner that a nonconforming sign or structure has been vandalized or subject to other criminal or tortious act, then the replacement, rebuilding, or re-erecting of such sign or structure will not be considered a substantial change in existing use irrespective of the cost of such replacement; however, it will be considered a substantial change in existing use if damage to nonconforming signs or structures is caused by natural disasters, hurricanes, high winds, hail, or the like, and such damage exceeds 60% of the current replacement cost new of the entire sign or

structure. In the event vandalism and an act of God combine to damage a nonconforming sign or structure, the commissioner shall determine the percentage allocated to each cause of damage before determining whether a substantial change in existing use has occurred.

5. Normal upkeep and repair of such sign or structure on a frequent basis, to the extent that the total cost of such repairs in the 12-month period would not exceed 60% of the current replacement cost new of the entire sign or structure, is not a substantial change in existing use.

C. In reaching a determination on the cost point in subdivisions B 4 and B 5 of this section the following will apply:

1. The sign owner shall furnish the commissioner cost data supporting any contention that such sign or structure is not damaged more than 60% of the replacement cost new;

2. The commissioner may also utilize any other data available to him.

3. A sign or advertising structure lawfully in existence under the "Grandfather Clause" (see § 4.1, Definitions) must conform to the criteria set out herein.

4. Certain standard maintenance practices and techniques utilized by the industry relating to how repairs are accomplished may be individually approved, in which case nonconforming rights shall not be terminated.

5. A nonconforming sign or structure that does not conform to the foregoing criteria shall constitute a substantial change in existing use thereby terminating nonconforming rights and legal status.

§ 4.3. Right to continue.

The right to continue a nonconforming sign, advertisement, or advertising structure is not confined to its owner or any one individual or corporation so using the land. Thus, a nonconforming sign, advertisement, or advertising structure may be sold, leased or otherwise transferred without affecting its status.

§ 4.4. Owner's responsibility.

The owner is responsible for the maintenance and continuance of a sign, advertisement, or advertising structure in conformity with the foregoing, which is not construed to relieve owner of such responsibility, nor to waive applicable provisions of the Code of Virginia relating to outdoor advertising including, but not limited to, §§ 33.1-351, 33.1-364, 33.1-369, 33.1-370, 33.1-371 and 33.1-375 of the Code of Virginia.

V.A.R. Doc. No. R95-229; Filed January 9, 1995; 3:26 p.m.

COMMONWEALTH OF VIRGINIA
APPLICATION FOR OUTDOOR ADVERTISING PERMIT

OA-105A
Revised 7-1-93

To the DEPARTMENT OF TRANSPORTATION
OUTDOOR ADVERTISING
Richmond, Virginia 23219

Date _____ 19 ____

Application is hereby made IN TRIPLICATE (3) for a permit to erect and maintain an advertising sign as located and described hereinafter, and in accordance with the provisions of the Outdoor Advertising Act (Sec. 33.1-351 through Sec. 33.1-381 of the Code of Virginia (1950), as amended). Make check payable to TREASURER OF VIRGINIA.

Location: Route No. _____ in _____ County/ Municipality situated _____ miles (North, E.S.W.)
of _____ and on real property owned by _____
(Route, County, City or Town limits, or other nearest location)

with WRITTEN CONSENT as indicated below Property Owner's Phone (_____) _____

EVIDENCE OF CONSENT TO ERECT AND DISPLAY ADVERTISING STRUCTURE OR ADVERTISEMENT
(SEC. 33.1-361)
(Only Section I or II is to be filled out with this application)

Sec. I Dated at _____ City _____ State _____ Date _____ 19 ____

Acknowledgement is hereby made by the undersigned owner or his authorized agent of the property on which it is proposed to erect the sign described on this application, giving written consent to the applicant to erect and maintain said advertising signs.

WITNESS _____ SIGNATURE _____ (Owner)
_____ (Agent)

(USE WHEN APPLICANT HAS LEASE ON FILE)

Sec. II Dated at _____ City _____ State _____ Date _____ 19 ____

The applicant has in his files written evidence of the consent of the property owner, to erect the proposed sign at the location described in this application.

SIGNATURE _____

The above subscribed and sworn to before me this _____ day of _____ 19 ____

My Commission expires _____ Notary Public _____

DESCRIPTION: Size: Length _____ Ft., Width _____ ft., AREA _____ square ft.
_____ m. _____ m. _____ m. sq.

This sign has _____ faces. Advertisment FEES: ** Inspection & _____
 Illuminated Non-Illuminated Permit \$ _____

FOR USE IN ZONED COUNTIES/ MUNICIPALITIES

Name of Co. or Firm _____
Federal Identification Number _____
Zoning Classification _____ Date _____
Approved _____ 19 ____
Zoning Administrator _____ Signed _____ (Owner)
Country/ Municipality _____ Address _____ (Agent)
Phone (_____) _____

(FOR OFFICE USE ONLY)

County/ Municipality _____ Route _____ M P _____ Application No _____ Permit No _____
K P _____

Inspected by _____ This Permit Issued by Order of the Environmental Engineer
Date _____ Per _____ Operations & Maintenance Section Manager
Date _____

INSPECTION FEES

Interstate Highways	\$50 00
National Highway System Highways	\$50 00
Federal-Aid Primary Highways	\$50 00
Other Highways	\$25 00

PERMIT FEES

Size (Sq. Ft.)	(M. Sq.)	Each Face
0 - 32	0.0 - 3.0	\$ 3.00
33 - 74	3.1 - 6.8	\$ 5.50
75 - 424	6.9 - 39.3	\$20.00
425 - 624	39.4 - 57.8	\$25.00
625 - Up Plus \$15.00 for each additional 200 sq. ft., (18.5 M. Sq.)		
579 M. Sq. except within municipalities.		

MAKE CHECK PAYABLE TO TREASURER OF VIRGINIA

PRIOR TO SUBMITTING APPLICATION FOR PERMIT, PLACE TEMPORARY STAKES AT THE EXACT LOCATION WHERE YOU PROPOSE TO ERECT THE SIGN.

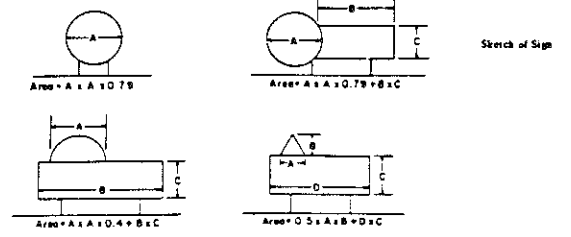
NOTE: Permits will not be extended or renewed in cases where the permittee has not exercised the privilege of erecting such advertising structure or displayed such advertisement during the period for which the permit was issued. Permits issued after December fifteenth will cover the following calendar year.

This permit does not grant permission for removal or trimming shrubs or trees on the highway right of way. Violators will be prosecuted.

A PERMIT is NOT VALID except when identification tag is attached to the sign. When the sign is owned by a LICENSED OUTDOOR ADVERTISER, it shall also bear his name.

AN ADVERTISING SIGN MUST NOT BE ERECTED UNTIL A PERMIT IS ISSUED FOR IT. Permits expire on December 31, following date of issue and must be renewed within thirty days.

SIZE OF SIGN - The area shall be measured (inclusive of any border and trim but excluding ornamental base or apron supports and other structural members) by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire advertisement.



SPACING OF STRUCTURES - Interstate Highways and Freeways on the National Highway System or Federal-Aid Primary System as that system existed on June 1, 1991.

No two structures shall be spaced less than 500 feet (152.4 M) apart. At the intersection of any Interstate Highway and any other highway, no structure shall be permitted within 500 feet (152.4 M) from any point of ingress to or egress from the Interstate Highway.

Federal-Aid Primary or National Highway System Highways
Inside Counties no two structures shall be spaced less than 300 feet (91.5 M) apart
Inside Municipalities no two structures shall be spaced less than 100 feet (30.5 M) apart

For the purpose of these regulations in a locality without a zoning ordinance, an unzoned commercial or industrial area shall be defined as a parcel or parcels of land on which there is located one or more permanent structures devoted to a business or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon and the area extending outward 500 feet (152.4 M) from and beyond the edge of such activity. Each side of the highway will be considered separate in applying this definition.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

January 17, 1995

David R. Gehr, Commissioner
Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219

Attention: Larry D. Jones, Regulatory Coordinator

RE: VR 385-01-13 Rules and Regulations Controlling
Outdoor Advertising & Directional
and Other Signs and Notices.

Dear Mr. Gehr:

This will acknowledge receipt of the above-referenced regulations from the Department of Transportation.

As required by § 9-6.14:4.1 C.4.(a) and (c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS: jlw

Final Regulations

* * * * *

REGISTRAR'S NOTICE: The following regulation is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 2, which excludes regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority. The Department of Transportation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 385-01-30. Delegation of Duties.

Statutory Authority: § 33.1-8 of the Code of Virginia.

Effective Date: March 8, 1995.

Summary:

The Delegation of Duties directive (VR 385-01-30) is published as a Department Policy Memorandum (DPM) 1-3 in the Department Policy Memoranda Manual. It lists the duties the commissioner has delegated to his senior staff as provided for by § 33.1-8 of the Code of Virginia.

VR 385-01-30. Delegation of Duties.

§ 1. Introduction.

The Code of Virginia empowers the Commissioner of the Virginia Department of Transportation to delegate certain duties to the chief engineer, deputy commissioner, and assistant commissioner as circumstances so require.

§ 2. Duties delegated to the chief engineer.

The commissioner has delegated the following duties to the chief engineer.

1. The execution of the necessary certificates or other instruments to effectively comply with the statutes enacted granting the commissioner the authority to exercise the power of eminent domain and acquire rights-of-way, after the commissioner's approval of construction plans;
2. The execution of certificates of deposit and all other instruments contemplated by §§ 33.1-119 through 33.1-129 of the Code of Virginia; and
3. The execution of all contracts or agreements pertaining to the chief engineer's areas of specific responsibility: highway design, right-of-way, construction and maintenance.

This includes, but is not limited to, contracts for construction and maintenance projects, agreements for joint highway railway projects with railroads, and agreements with the Federal Highway Administration.

§ 3. Duties delegated to the deputy commissioner.

The commissioner has delegated the following duties to the deputy commissioner:

1. All acts of the commissioner necessary to discontinue or abandon roads in the Secondary System of State Highways as contemplated by Article 2 (§ 33.1-25 et seq.) of Chapter 1 of Title 33.1 of the Code of Virginia.
2. The execution of all contracts or agreements pertaining to the deputy commissioner's areas of specific responsibility: highway and transportation planning, project programming and scheduling, financial planning, general administration of the department. This includes, but is not limited to, agreements for highway projects within cities and towns; agreements with the Federal Highway Administration; agreements with the Urban Mass Transportation Administration; agreements with the Federal Railroad Administration; agreements with local governments, transportation planning commissions, and other parties eligible for transit and planning financial assistance.

§ 4. Duties delegated to the assistant commissioner.

The commissioner has delegated the following duties to the assistant commissioner.

1. The development and issuance of appropriate policy on organizational memberships within the department;
2. The development of appropriate procedures to monitor adherence to the policy; and
3. The maintenance of a record on organizational memberships.

V.A.R. Doc. No. R95-230; Filed January 9, 1995, 3:27 p.m.

* * * * *

REGISTRAR'S NOTICE: The following regulation is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 2, which excludes regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority. The Department of Transportation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 385-01-36. Internal Audit Charter.

Statutory Authority: § 33.1-8 of the Code of Virginia.

Effective Date: March 8, 1995.

Summary:

The Internal Audit Charter establishes the mission, reporting responsibilities, authority, functions, limitations, and standards which the Department of Transportation's Internal Audit Division follows in performing its assigned duties in compliance with agency policy and state law. The charter is published as Department Policy Memorandum (DPM) 5-1 in the Department Policy Memoranda Manual.

VR 385-01-36. Internal Audit Charter.

§ 1. Introduction.

This charter serves as a basic document in the organization and administration of the Internal Audit Division. It is not intended to be a listing of all of the duties and responsibilities of the Internal Audit Division.

§ 2. Mission.

The mission of the Internal Audit Division is to assist the management of the Department of Transportation in the effective discharge of its responsibilities by furnishing the following about activities reviewed: analyses, appraisals, recommendations, counsel, information, and by promoting effective control at reasonable cost.

§ 3. Reporting relationship.

The Internal Audit Division reports to the commissioner and to the Commonwealth Transportation Board (CTB) Internal Audit Committee. The CTB Internal Audit Committee shall receive reports from the Internal Audit Division and determine the adequacy of the review performed, appropriateness of the recommendations, and adequacy of the corrective action taken; direct further study and analysis or initiate further study in areas of concern; require feedback on the status of recommendations and their implementation; periodically report to the CTB or commissioner as to the effectiveness of the internal audit function. The CTB Internal Audit Committee reports directly to the Commonwealth Transportation Board and makes suggestions to the commissioner as appropriate. The Internal Audit Manager or his designee meets with the CTB Internal Audit Committee on a quarterly basis or at the pleasure of the Chairman to review the status of recommendations contained in audit reports. Results of the meetings are conveyed to the Executive Committee in writing by the Internal Audit Manager.

§ 4. Authority and responsibility.

The Internal Audit Manager is authorized to develop and execute a broad, comprehensive program of internal auditing within the Department of Transportation. The Internal Audit Manager and staff are authorized full, free, and complete access to any of the Department of Transportation's records (either manual or electronic), physical properties, and personnel considered relevant for a review.

§ 5. Limitations.

Internal auditors have no direct responsibilities or authority over any of the activities or operations they review, should not develop and install procedures, prepare records, make management decisions, or engage in activities normally reviewed by internal auditors.

§ 6. Scope of audits.

Internal audits may include any or all of the following: reviewing the reliability and integrity of financial and operating information and the means used to identify, measure, classify and report information; reviewing the systems established to ensure compliance with policies, plans, procedures, laws, and regulations which could have a significant impact on operations and reports and determining whether the department is in compliance; reviewing and appraising the economy and efficiency with which resources are employed; and reviewing operations or programs to ascertain whether the results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

§ 7. Standards of practice.

The Department of the State Internal Auditor has adopted the "Standards for the Professional Practice of Internal Auditing" and the "Statements on Internal Auditing Standards" as promulgated by the Institute of Internal Auditors, Inc. These standards are incorporated and followed in the performance of Department of Transportation's internal audits.

VA.R. Doc. No. R95-231; Filed January 9, 1995, 3:27 p.m.

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

FINAL REGULATION

Title of Regulation: Rules Governing the Safety of Intrastate Hazardous Liquid Pipeline Systems.

Statutory Authority: §§ 12.1-13 and 56-555 of the Code of Virginia.

Effective Date: January 10, 1995.

Agency Contact: Copies of the regulation may be obtained from Mr. Massoud Tahamtani, State Corporation Commission, Division of Energy Regulation, P.O. Box 1197, Richmond, VA 23209, telephone (804) 371-9611. Copying charges are \$1.00 for the first two pages, and 50¢ for each page thereafter.

AT RICHMOND, JANUARY 9, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE940070

Ex Parte: In the matter of adopting rules to govern the safety of intrastate hazardous liquid pipelines pursuant to the Virginia Hazardous Liquid Pipeline Safety Act

ORDER ADOPTING RULES GOVERNING THE SAFETY OF HAZARDOUS LIQUID PIPELINES

Section 56-555 of the Code of Virginia authorizes the State Corporation Commission ("Commission") to act for the United States Secretary of Transportation to implement the federal Hazardous Liquid Pipeline Safety Act ("Act"), formerly at 49 U.S.C. App. §§ 2001-2014, codified on July 5, 1994, as 49 U.S.C. §§ 60101, et seq., with respect to intrastate pipelines located within the Commonwealth to the extent authorized by certification or agreement under Section 205 of the Act, codified as 49 U.S.C. § 60105.

By Order for Notice and Comments ("Order") dated November 2, 1994, the Commission proposed to adopt by reference Parts 195 and 199 of Title 49 of the Code of Federal Regulations as the minimum pipeline safety regulations applicable to the intrastate hazardous liquid pipelines located in the Commonwealth, along with the additional requirements specified in Appendix A to the Order. The Order established notice requirements and dates for the submission of comments in support of or in opposition to the Commission's adoption of the proposed regulations and provided procedures for requesting a hearing.

By Order dated November 23, 1994, the Commission established revised dates for complying with the previously

ordered notice requirements and for the submission of comments in support of or in opposition to the proposed regulations. In that regard the Commission's Division of Energy Regulation was required to publish notice in newspapers of general circulation in the Commonwealth and in the Virginia Register of Regulations of the proposed regulations. When the proposed regulations were published in the November 28, 1994 issue of the Virginia Register of Regulations, the Staff of the Virginia Code Commission, pursuant to its authority under Virginia Code §§ 9-77.7 and 9-77.10:1, made editorial changes which did not affect the substance of the proposed regulations. Furthermore, the Staff of the Virginia Code Commission has stated that additional changes may be made prior to formal publication of Commission adopted regulations in the Virginia Register of Regulations.

IT APPEARING from the record that the Commission's publication requirements were met and that no comments or requests for hearing were received, the Commission is of the opinion and finds that the proposed regulations, as now or hereafter edited pursuant to Virginia Code §§ 9-77.7 and 9-77.10:1 by the Staff of the Virginia Code Commission, should be adopted. Accordingly,

IT IS ORDERED:

(1) That Parts 195 and 199 of Title 49 of the Code of Federal Regulations, along with the additional requirements as they appear in Appendix A herein or as edited pursuant to Virginia Code §§ 9-77.7 and 9-77.10:1 by the Staff of the Virginia Code Commission for publication in the Virginia Register of Regulations are the minimum pipeline safety regulations applicable to jurisdictional hazardous liquid pipelines; and

(2) That there being nothing further to be done herein, the same is hereby dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Commission's Division of Energy Regulation and the Office of General Counsel.

APPENDIX A

Rules Governing the Safety of Intrastate Hazardous Liquid Pipeline Systems

§ 1. Safety of intrastate hazardous liquid pipeline systems.

A. These rules are adopted pursuant to § 56-555 of the Code of Virginia to establish safety and inspection requirements for intrastate hazardous liquid pipeline systems as defined by federal regulation promulgated under 49 U.S.C. § 60101.

B. Parts 195 and 199 of Title 49 of the Code of Federal Regulations are hereby adopted by reference as the minimum pipeline safety regulations applicable to intrastate hazardous liquid pipeline systems within the commission's jurisdiction.

State Corporation Commission

C. Telephonic notices regarding incidents involving hazardous liquid pipeline systems shall be made, at the earliest practicable moment following discovery of the incident, to the commission's Division of Energy Regulation during the division's daily hours and to the commission's Manager of Pipeline Safety (pager number (804) 351-4100) during all other times. Such notices shall include the information listed in § 195.52(b)(1) through (b)(6) of Title 49 C.F.R.

D. The commission's Division of Energy Regulation may require certain written reports from the jurisdictional hazardous liquid pipeline systems to aid the commission staff in administering an effective pipeline safety program.

E. The commission's Division of Energy Regulation shall be empowered to submit and sign on behalf of the commission, such forms and applications as necessary to assure participation in hazardous liquid pipeline safety programs, as deemed advisable by the commission to assure an effective safety program in Virginia, but that the commission comptroller shall be empowered to sign on behalf of the commission those applications and forms pertaining to grants or reimbursement of expenses incurred by the commission in conducting the pipeline safety program in Virginia.

VA.R. Doc. No. R95-232; Filed January 10, 1995, 8:51 a.m.

* * * * *

BUREAU OF INSURANCE

January 10, 1995

ADMINISTRATIVE LETTER 1995-3

TO: All Insurers, Health Services Plans, and Health Maintenance Organizations Licensed to Write Accident and Sickness Insurance in Virginia

RE: Virginia Insurance Regulation No. 38: Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers

On November 22, 1994, the Virginia State Corporation Commission adopted revisions to its Insurance Regulation No. 38, as amended, which substantially alter the reporting requirements imposed by the Regulation. Please note the following, pursuant to Virginia Insurance Regulation No. 38 and § 38.2-3419.1 of the Code of Virginia:

1. Any insurer, health services plan, or health maintenance organization whose total Virginia annual written premiums for all accident and sickness policies or subscription contracts, as reported on its Annual Statement for 1994 is less than \$500,000 shall, for that reporting period, be exempt from filing a report as required by Regulation No. 38, and shall not be required to notify the Commission of such exemption other than through the timely filing of its

Annual Statement.

2. Any insurer, health services plan, or health maintenance organization that does not qualify for an exemption as described above may file an abbreviated report if its annual written premiums for applicable policies or contracts that were subject to Virginia's mandated benefit and provider requirements total less than \$500,000. An abbreviated report must contain a completed page 1 of Form MB-1 and an accounting of all Virginia accident and sickness premiums by policy type and by situs (e.g. Virginia, Maryland).

3. Any insurer, health services plan, or health maintenance organization that does not qualify under either of the exceptions outlined above must file a complete Form MB-1 report.

4. It is not acceptable to consolidate information from companies within the same holding company system. Each licensed company must file its own Form MB-1.

5. This is the fourth reporting year since Regulation No. 38 became effective. Lack of notice, lack of information, lack of a means of producing the required data, or other such excuses will under no circumstances be accepted.

6. Reports filed in compliance with this regulation must be in the format contained in Form MB-1 (a copy of which is attached to this letter). Companies filing full reports are encouraged to do so on computer diskettes issued by the Bureau of Insurance. **However, please be advised that the Bureau's diskette reporting system cannot be run in the Windows environment.** Companies may submit their reports in paper form, if typed. Each company wishing to file its report on diskette should complete and return the attached Diskette Request Form. Diskettes supplied by the Bureau of Insurance will contain Form MB-1 and the necessary data entry system.

7. Companies are reminded that Regulation No. 38 contains specific instructions and reference materials which define the data required to complete Form MB-1. A partial list of instructions is attached to this Administrative Letter to provide further clarification. In addition, §§ 38.2-3408 through 38.2-3418.1 of the Code of Virginia, which are the subject of this regulation, should be consulted.

Correspondence regarding this reporting requirement, including Form MB-1 filings, should be directed to:

Robert L. Wright, III
Principal Insurance Analyst
Bureau of Insurance
P.O. Box 1157
Richmond, Virginia 23209
Telephone No.: 804-371-9586

Section 38.2-218 of the Code of Virginia provides that any person who knowingly or willfully violates any provision of the insurance laws shall be punished for each

State Corporation Commission

violation by a penalty of not more than \$5,000. Failure to file a substantially complete and accurate report pursuant to the provisions of Regulation No. 38 by the due date may be considered a willful violation and may subject the company to an appropriate penalty.

/s/ Steven T. Foster
Commissioner of Insurance

Form MB-1 Instructions

Parts A and B

1. **Part A** requires disclosure of specific claim data for each mandated benefit and mandated offer for both individual and group business. **Part B** requires similar data for each mandated provider category. In determining the cost of each mandate, it is expected that claim and other actuarial data will be used. Appendix B of Regulation No. 38 lists CPT-4 and ICD-9CM Codes which should be used in collecting the required data.

2. On the worksheets for individual business for **column d - Number of Contracts**, companies should report the number of individual contracts which contain the benefits and providers listed. For example, benefits which are mandated offers may be present in fewer contracts than mandated coverages.

3. On the worksheets for group business for **column d - Number of Certificates**, companies should report the number of group certificates which contain the benefits and providers listed, not the number of group contracts. It is understood that the number of group certificates can change frequently, but every effort should be made to estimate the average number in force during the reporting period.

4. **Column f - Annual Administrative Cost** should only include 1994 administrative costs (not start-up costs, unless those costs were incurred during the reporting period).

5. **Column g - Percent of Total Health Claims Paid** figures should be calculated using one base for the individual business worksheets and another base for the group business worksheets. Claim information should be limited to claims on policies or contracts issued or issued for delivery in the Commonwealth of Virginia and subject to Virginia mandated benefit and provider statutes.

Part C

1. **Part C** requires the company to identify standard individual and group policies, the annual premium for each type of coverage, and the portion of the annual premium attributable to each mandated benefit, offer, and provider. It is understood that companies do not usually rate each benefit and provider separately. **However, for the purpose of this report it is required that a dollar figure be assigned to each benefit and provider based on the company's actual claim experience, such as that**

disclosed in Parts A and B, and other relevant actuarial information.

2. In **Part C**, question #4, the premium for a policy "with mandates" should include all mandated benefits, offers, and providers.

Part D

1. This section requires that claim data be reported by procedure code, by provider type. The term "physician" refers to medical doctors.

2. Data should only reflect approved claims. Denials should not be included.

General

1. Claim information can be reported on either an incurred or paid basis as long as one is used consistently.

2. Information provided on Form MB-1 should only reflect the experience of policies or contracts delivered or issued for delivery in the Commonwealth of Virginia and subject to Virginia mandated benefit and provider statutes.

3. Symbols such as "N/A" should not be used in these reports. If a particular question or group of questions are not applicable to a company, then the corresponding blanks should be left empty (an answer of "0" will be given a numeric value of zero). All empty blanks should be explained in a cover letter accompanying the report filing.

VA.R. Doc. No. R95-249; Filed January 17, 1995, 11:43 a.m.

DISKETTE REQUEST FORM

Catherine S. West
Microcomputer Systems Coordinator
Bureau of Insurance
P.O. Box 1157
Richmond, Virginia 23209

RE: Administrative Letter 1995-3
Annual Report of Cost and Utilization Data Relating to Mandated Benefits and
Mandated Providers Pursuant to Section 38.2-3419.1 of the Code of Virginia and
Regulation No. 38

Dear Ms. West:

We would like to submit the above-referenced report for the 1994 reporting
period on computer diskette using the entry system supplied by the Bureau of
Insurance (requiring an IBM or IBM compatible personal computer with DOS and a
minimum of 640K of memory). Please forward a:

- 3.5" high density (1.4M) diskette
5.25" high density (1.2M) diskette

containing Form MB-1, the required data entry system, and instructions to my attention
as indicated below. I understand that the Bureau's data entry system which I am
requesting is not compatible with Windows.

Name:
Title:
Company:
NAIC Number: Group NAIC Number:
Mailing Address:
Phone Number:
Date:

B. Form MB-1

Form MB-1

Annual Report of Cost and Utilization Data
Relating to Mandated Benefits and Mandated Providers
Pursuant to § 38.2-3419.1 of the Code of Virginia

Reporting Period

Company Name

Group Name

Mailing Address

NAIC# Group NAIC #

Name of Person Completing Report

Title

Direct Telephone #

Mailing Address

Total accident and sickness premiums written in Virginia for all accident and sickness lines
including credit, disability income, and all others, whether subject to §§ 38.2-3408 or
38.2-4221 and §§ 38.2-3409 through 38.2-3419 of the Code of Virginia or not, as reported on the
Company's Annual Statement for the reporting period: \$

Total accident and sickness premiums written in Virginia on applicable policies and contracts, as
defined in § 3 of these rules that are subject to §§ 38.2-3408 or 38.2-4221 and §§ 38.2-3409
through 38.2-3419 for the reporting period: \$

Does this company claim eligibility to file an abbreviated report under § 4 C of Regulation No. 38
for this reporting period?

- [] Yes, and filing the abbreviated report allowed for in § 4 C.
[] No, and filing a complete report

State Corporation Commission

Part A: Claim Information - Benefits*

Enter the basis on which claim data presented throughout this report was collected (either "paid" or "incurred"):

INDIVIDUAL		a	b	c	d	e	f	g
Va. Code Section	Description	Number of Visits	Number of Days	Total Claims Payments	Number of Contracts	Claim Cost Per Contract	Annual Administrative Cost	Percent of Total Health Claims
38.2-3409	Dependent Children (Handicapped)							
38.2-3410	Doctor to Include Dentist							
38.2-3411	Newborn Children							
38.2-3412.1	Mental / Emotional / Nervous							
	Inpatient							
	Partial Hospital.							
38.2-3412.1	Alcohol and Drug Dependence							
	Inpatient							
	Partial Hospital.							
38.2-3418	Pregnancy from Rape/ Incest							
38.2-3418.1	Mammography							
38.2-3411.1	Child Health Supervision							

Enter total claims paid or incurred on individual policies subject to the above requirements (this figure should be used in calculating the figures required for column g):

* include information and amounts paid or incurred on hospital bills and other providers

a: number of provider and physician visits

b: number of inpatient or partial hospital days (if applicable)

c: total of claims paid or incurred for this mandate

d: number of contracts in force in Virginia containing the required or optional coverage

e: claim cost per contract = column c divided by column d

f: the administrative cost of complying with this mandate during the reporting period

g: claims paid or incurred for this benefit as a percentage of the total amount of health claims paid or incurred on individual policies or contracts subject to this reporting requirement

-A-3-

GROUP		a	b	c	d	e	f	g
Va. Code Section	Description	Number of Visits	Number of Days	Total Claims Payments	Number of Certificates	Claim Cost Per Certificate	Annual Administrative Cost	Percent of Total Health Claims
38.2-3409	Dependent Children (Handicapped)							
38.2-3410	Doctor to Include Dentist							
38.2-3411	Newborn Children							
38.2-3412.1	Mental / Emotional / Nervous							
	Inpatient							
	Partial Hospital.							
	Outpatient							
38.2-3412.1	Alcohol and Drug Dependence							
	Inpatient							
	Partial Hospital							
38.2-3414	Obstetrical Services							
	Normal Pregnancy							
	All Other							
38.2-3418	Pregnancy from Rape / Incest							
38.2-3418.1	Mammography							
38.2-3411.1	Child Health Supervision							

Enter total claims paid or incurred on group policies that are subject to the above requirements (this figure should be used in calculating the figures required for column g):

* include information and amounts paid or incurred on hospital bills and other providers for all health care expenses incurred because of this mandate

a: number of provider and physician visits

b: number of inpatient or partial hospital days (if applicable)

c: total of claims paid or incurred for this mandate

d: number of certificates containing the required or optional coverage

e: claim cost per certificate = column c divided by column d

f: the administrative cost of complying with this mandate during the reporting period

g: claims paid or incurred for this benefit as a percentage of the total amount of health claims paid or incurred on group policies or contracts subject to this reporting requirement

-A-4-

State Corporation Commission

Part B: Claim Information - Providers

INDIVIDUAL

Va. Code Sections 38.2-3408 & 38.2-4221	a Number of Visits	b Total Claims Payments	c Cost Per Visit	d Number of Contracts	e Claim Cost Per Contract	f Annual Administrative Cost	g Percent of Total Health Claims
Chiropractor							
Optometrist							
Optician							
Psychologist							
Clinical Social Worker							
Podiatrist							
Professional Counselor							
Physical Therapist							
Clinical Nurse Specialist*							
Audiologist							
Speech Pathologist							

* rendering mental health services

- a: number of visits to this provider group for which claims were paid or incurred in Virginia
- b: total dollar amount of claims paid to this provider group in Virginia
- c: cost per visit = column b divided by column a
- d: number of individual contracts subject to this reporting requirement
- e: claim cost per contract = column b divided by column d
- f: the administrative cost of complying with this mandate during the reporting period
- g: claims paid or incurred for services administered by each provider type as a percentage of the total amount of health claims paid or incurred on individual policies or contracts subject to this reporting requirement

-A-5-

GROUP

Va. Code Sections 38.2-3408 & 38.2-4221	a Number of Visits	b Total Claims Payments	c Cost Per Visit	d Number of Certificates	e Claim Cost Per Certificate	f Annual Administrative Cost	g Percent of Total Health Claims
Chiropractor							
Optometrist							
Optician							
Psychologist							
Clinical Social Worker							
Podiatrist							
Professional Counselor							
Physical Therapist							
Clinical Nurse Specialist*							
Audiologist							
Speech Pathologist							

* rendering mental health services

- a: number of visits to this provider group for which claims were paid or incurred in Virginia
- b: total dollar amount of claims paid to this provider group in Virginia
- c: cost per visit = column b divided by column a
- d: number of certificates subject to this reporting requirement
- e: claim cost per certificate = column b divided by column d
- f: the administrative cost of complying with this mandate during the reporting period
- g: claims paid or incurred for services administered by each provider type as a percentage of the total amount of health claims paid or incurred on group contracts subject to this reporting requirement

-A-6-

Part C: Premium Information

1. Please use what you consider to be your standard policy to answer this question. For the individual policy used as your base calculations in the question below:

- o What is the deductible? _____
- o What is the coinsurance? _____
- o What is the individual/employee out-of-pocket maximum? _____

For the group policy used as your base calculation in the question below:

- o What is the deductible? _____
- o What is the coinsurance? _____
- o What is the individual/employee out-of-pocket maximum? _____

For your standard health insurance policy in Virginia, provide the total annual premium that would be charged per unit of coverage assuming inclusion of all of the benefits and providers listed below. In addition, provide the portion (dollar amount) of the annual premium for each policy that is attributable to each mandate listed. If the company does not have a "Family" rating category, coverage for two adults and two children is to be used when calculating the required family premium figures.

Please indicate where coverage under your policy exceeds Virginia's mandates.

	Va. Code Section	Individual Policy		Group Certificates	
		Single	Family	Single	Family
Annual Premium for Standard Policy Described Above		_____	_____	_____	_____
Premium Attributable to Each Mandate:					
Dependent Children (Handicapped)	38.2-3409		_____		_____
Doctor to Include Dentist	38.2-3410		_____		_____
Newborn Children	38.2-3411		_____		_____
Mental/Emotional/Nervous (Mental Disabilities)	38.2-3412.1				
Inpatient			_____		_____
Partial Hospitalization			_____		_____
Outpatient					_____

Alcohol and Drug Dependence	38.2-3412.1				
Inpatient			_____		_____
Partial Hospitalization			_____		_____
Outpatient					_____
*Obstetrical Services	38.2-3414				
Normal Pregnancy					_____
All Other					_____
Pregnancy from Rape or Incest	38.2-3418				_____
*Mammography	38.2-3418.1				_____
*Child Health Supervision	38.2-3411.1				_____

* Denotes mandated offer

Chiropractor	38.2-3408/38.2-4221				
Optometrist	38.2-3408/38.2-4221				
Optician	38.2-3408/38.2-4221				
Psychologist	38.2-3408/38.2-4221				
Clinical Social Worker	38.2-3408/38.2-4221				
Podiatrist	38.2-3408/38.2-4221				
Professional Counselor	38.2-3408/38.2-4221				
Physical Therapist	38.2-3408/38.2-4221				
Clinical Nurse Specialist**	38.2-3408/38.2-4221				
Audiologist	38.2-3408/38.2-4221				
Speech Pathologist	38.2-3408/38.2-4221				

** rendering mental health services

2. What is the number of individual policies and/or group certificates issued or renewed by the Company in Virginia during the reporting period?

	Single	Family
Individual	_____	_____
Group	_____	_____

3. What is the number of individual policies and/or group certificates in force for your company in Virginia as of the last day of the reporting period?

	Single	Family
Individual	_____	_____
Group	_____	_____

4. What would be the annual premium for an individual policy with no mandated benefits or mandated providers for a 30 year old male in the Richmond area in your standard premium class? What would be the cost for a policy for the same individual with present mandates? (Assume coverage including \$250 deductible, \$1,000 stop-loss limit, 80% co-insurance factor, \$250,000 policy maximum.) If you do not issue a policy of this type, please provide the premium for a 30 year old male in your standard premium class for the policy that you offer that is most similar to the one described and summarize the differences from the described policy.

Without Mandates \$ _____

With Mandates \$ _____

Differences in Policy _____

5. The following questions concern the cost of converting group coverage to an individual policy. Answer only those questions which are relevant to your company's practices.

a. If the company adds an amount to the annual premium of a group policy or certificate to cover the cost of conversion to an individual policy, provide the average dollar amount per certificate:

Single: _____ Family: _____

b. If the cost of conversion is instead covered in the annual premium of the individual policy, provide the average dollar amount attributable to the conversion requirement:

Single: _____ Family: _____

c. If the cost of conversion is instead covered by a onetime charge made to the group policyholder for each conversion, provide the average dollar amount:

Single: _____ Family: _____

Part D: Utilization and Expenditures for Selected Procedures by Provider Type

Selected Procedure Codes are listed here to obtain information about utilization and costs for specific types of services. Please identify expenditures and visits for the Procedure Codes indicated. Other claims should not be included here. Individual and group data must be combined for this part of the report.

1. Procedure Code 99203

Office Visit, Intermediate Service to New Patient

	Number of Visits	Claims Payments	Cost Per Visit
Chiropractor			
Clinical Social Worker			
Physical Therapist			
Podiatrist			
Professional Counselor			
Psychologist			
Physician			

2. Procedure Code 90844

Medical Psychotherapy, 45 to 50 Minute Session

	Number of Visits	Claims Payments	Cost Per Visit
Clinical Nurse Specialist*			
Clinical Social Worker			
Professional Counselor			
Psychiatrist			
Psychologist			
Physician			

3. Procedure Code 90853

Group Medical Psychotherapy

	Number of Visits	Claims Payments	Cost Per Visit
Clinical Nurse Specialist*			
Clinical Social Worker			
Professional Counselor			
Psychiatrist			
Psychologist			
Physician			

* rendering mental health services

4. Procedure Code 92507

Speech, Language or Hearing Therapy, Individual

	Number of Visits	Claims Payments	Cost Per Visit
Audiologist			
Clinical Social Worker			
Physical Therapist			
Professional Counselor			
Speech Pathologist			
Physician			

5. Procedure Code 97110

Physical Medicine Treatment, 30 Minutes, Therapeutic Exercise

	Number of Visits	Claims Payments	Cost Per Visit
Chiropractor			
Physical Therapist			
Physician			
Podiatrist			
Speech Pathologist			

6. Procedure Code 97124

Physical Medicine Treatment, Massage

	Number of Visits	Claims Payments	Cost Per Visit
Chiropractor			
Physical Therapist			
Physician			
Podiatrist			

7. Procedure Code 97128

Physical Medicine Treatment, Ultrasound

	Number of Visits	Claims Payments	Cost Per Visit
Chiropractor			
Physical Therapist			
Physician			
Podiatrist			

8. **Procedure Code 92352**
 Fitting of Spectacle Prosthesis for Aphakia, monofocal

	Number of Visits	Claims Payments	Cost Per Visit
Ophthalmologist			
Optician			
Optometrist			
Physician			

9. **Procedure Code 11750**
 Excision of Nail and Nail Matrix, Partial or Complete, for Permanent Removal

	Number of Visits	Claims Payments	Cost Per Visit
Physician			
Podiatrist			

Appendix B. CPT-4, ICD-9CM, and UB-82 References.

A. CPT and ICD-9CM Codes

Va. Code Section 38.2-3410: Doctor to Include Dentist
 (Medical services legally rendered by dentists and covered under contracts other than dental)

ICD Codes

520-529 Diseases of oral cavity, salivary glands and jaws

Va. Code Section 38.2-3411: Newborn Children
 (children less than 32 days old)

ICD Codes

740-759 Congenital anomalies
 760-763 Maternal causes of perinatal morbidity and mortality
 764-779 Other conditions originating in the perinatal period

CPT Codes

99295 Initial NICU care, per day, for the evaluation and management of a critically ill neonate or infant
 99296 Subsequent NICU care, per day, for the evaluation and management of a critically ill and unstable neonate or infant
 99297 Subsequent NICU care, per day, for the evaluation and management of a critically ill and stable neonate or infant
 99431 History and examination of the normal newborn infant, initiation of diagnostic, and treatment programs and preparation of hospital records
 99432 Normal newborn care in other than hospital or birthing room setting including physical examination of baby and conference(s) with parent(s)
 99433 Subsequent hospital care for the evaluation and management of a normal newborn, per day

99440 Newborn resuscitation: care of the high risk newborn at delivery, including, for example, inhalation therapy, aspiration, administration of medication for initial stabilization

Va. Code Section 38.2-3412.1: Mental/Emotional/Nervous Disorders
 (must use UB-82 place-of-service codes from Section B of this Appendix to differentiate between inpatient, partial hospitalization, and outpatient claims where necessary)

ICD Codes

290, 293-294 Organic Psychotic Conditions

295-299 Other psychoses

300-302, 306-316 Neurotic disorders, personality disorders, other non-psychotic mental disorders

317-319 Mental retardation

CPT Codes

99221-99223 Initial hospital care, per day, for the evaluation and management of a patient

99231-99233 Subsequent hospital care, per day, for the evaluation and management of a patient

99238 Hospital discharge day management

99241-99263 Consultation for psychiatric evaluation of a patient includes examination of a patient and exchange of information with primary physician and other informants such as nurses or family members, and preparation of report.

90801 Psychiatric diagnostic interview examination, including history, mental status, or disposition

90820 Interactive medical psychiatric diagnostic interview examination

90825 Psychiatric evaluation of hospital records, other psychiatric reports, psychometric and/or projective tests, and other accumulated data for medical diagnostic purposes

90830 Psychological testing by physician, with written report per hour

90835 Narcosynthesis for psychiatric diagnostic and therapeutic purposes

90841 Individual medical psychotherapy by a physician, with continuing medical diagnostic evaluation and drug management when indicated, including insight oriented, behavior modifying or supportive psychotherapy; time unspecified

90842 approximately 75 to 80 minutes (90841)

90843 approximately 20 to 30 minutes (90841)

90844 approximately 45 to 50 minutes (90841)

90845 Medical psychoanalysis

90846 Family medical psychotherapy (without the patient present)

90847 Family medical psychotherapy (conjoint psychotherapy) by a physician, with continuing medical diagnostic evaluation, and drug management when indicated

90849 Multiple family group medical psychotherapy by a physician, with continuing medical diagnostic evaluation, and drug management when indicated

90853 Group medical psychotherapy by a physician, with continuing medical diagnostic evaluation, and drug management when indicated

90855 Interactive individual medical psychotherapy

90857 Interactive group medical psychotherapy

90862 Pharmacologic management, including prescription use, and review of medication with no more than minimal medical psychotherapy

90870 Electro convulsive therapy, single seizure

90871 Multiple seizures, per day

Other Psychiatric Therapy

90880 Medical hypnotherapy

90882 Environmental intervention for medical management purposes on a psychiatric patient's behalf with agencies, employers, or institutions

- 90887 Interpretation or explanation of results of psychiatric, other medical examinations and procedures, or other accumulated data to family or other responsible persons, or advising them to assist patient
- 90889 Preparation of report of patient's psychiatric status, history, treatment, or progress (other than for legal or consultative purposes) for other physicians, agencies, or insurance carriers
- Other Procedures
- 90899 Unlisted psychiatric service/procedure

Va. Code Section 38.2-3412.1: Alcohol and Drug Dependence

ICD Codes

- 291 Alcohol Psychoses
- 303 Alcohol dependence syndrome
- 292 Drug Psychoses
- 304 Drug dependence
- 305 Nondependent abuse of drugs

CPT Codes

Same as listed above for Mental/Emotional/Nervous Disorders, but for above listed conditions.

Va. Code Section 38.2-3414: Obstetrical Services

Normal Pregnancy

ICD Codes

- 650 Normal delivery without abnormality or complication classifiable elsewhere in categories 630-676, and with spontaneous cephalic delivery, without mention of fetal manipulation or instrumentation

CPT Codes

Any codes in the maternity care and delivery range of 59000-59899 associated with ICD Code 650 listed above

All Other Obstetrical Services

ICD Codes

- 630-648, 651-676 Complications of pregnancy, childbirth, and puerperium

CPT Codes

Incision, Excision, Introduction, and Repair

- 59000 Amniocentesis, any method
- 59012 Cordocentesis (intrauterine), any method
- 59015 Chorionic villus sampling, any method
- 59020 Fetal contraction stress test
- 59025 Fetal scalp blood sampling
- 59050 Initiation and/or supervision of internal monitoring during labor by consultant with report (separate procedure)
- 59100 Hysterotomy, abdominal (e.g., for hydatidiform mole, abortion)
- 59120 Surgical treatment of ectopic pregnancy; tubal or ovarian, requiring salpingectomy and/or oophorectomy, abdominal or vaginal approach
 - tubal or ovarian, without salpingectomy and/or oophorectomy (59120)
 - abdominal pregnancy (59120)
 - interstitial, uterine pregnancy requiring total hysterectomy (59120)
 - interstitial, uterine pregnancy with partial resection of uterus (59120)
 - cervical, with evacuation (59120)

59150 Laparoscopic treatment of ectopic pregnancy; without salpingectomy and/or oophorectomy

59151 with salpingectomy and/or oophorectomy (59150)

59160 Curettage, postpartum (separate procedure)

59200 Insertion of cervical dilator (e.g., laminaria, prostaglandin) (separate procedure)

59300 Episiotomy or vaginal repair, by other than attending physician

59320 Cerclage or cervix, during pregnancy; vaginal

59325 abdominal (59320)

59350 Hysterorrhaphy of ruptured uterus

Delivery, Antepartum and Postpartum Care

59400 Routine obstetric care including antepartum care, vaginal delivery (with or without episiotomy, and/or forceps) and postpartum care

59409 Vaginal delivery only (with or without episiotomy and/or forceps)

59410 including postpartum care (59409)

59412 External cephalic version, with or without tocolysis

59414 Delivery of placenta following delivery of infant outside of hospital

59425 Antepartum care only; 4-6 visits

59426 7 or more visits (59425)

59430 Postpartum care only (separate procedure)

Cesarean Delivery

59510 Routine obstetric care including antepartum care, cesarean delivery, and postpartum care

59514 Cesarean delivery only

59515 including postpartum care (59514)

59525 Subtotal or total hysterectomy after cesarean delivery (~~list in~~ addition to 59510 or 59515)

Abortion

59201- Medical treatment of spontaneous complete abortion, any trimester
59233

59812 Treatment of incomplete abortion, any trimester, completed surgically

59820 Treatment of missed abortion, completed surgically, first trimester

59821 second trimester (59820)

59830 Treatment of septic abortion, completed surgically

59840 Induced abortion, by dilation and curettage

59841 Induced abortion, by dilation and evacuation

59850 Induced abortion, by one or more intra-amniotic injections (amniocentesis-injections), including hospital admission and visits, delivery of fetus and secundines);

59851 with dilation and curettage and/or evacuation (59850)

59852 with hysterotomy (failed intra-amniotic injection) (59850)

Other Procedures

59870 Uterine evacuation and curettage for hydatidiform mole

59899 Unlisted procedure, maternity care and delivery

Anesthesia

00850 Cesarean

00855 Cesarean hysterectomy

00857 Continuous epidural analgesia for labor and cesarean section

Va. Code Section 38.2-3418: Pregnancy from Rape/Incest

Same Codes as Obstetrical Services/Any Other Appropriate in cases where coverage is provided solely due to the provisions of § 38.2-3418 of the Code of Virginia

Va. Code Section 38.2-3418.1: Mammography

CPT Codes

76092 Screening Mammography, bilateral

Va. Code Section 38.2-3411.1: Child Health Supervision, Services (Well Baby Care)

CPT Codes

- 90700 Immunization, active; diphtheria, tetanus toxoids, and acellular pertussis vaccine (DTaP)
- 90701 Diphtheria and tetanus toxoids and pertussis vaccine (DTP)
- 90702 Diphtheria and tetanus toxoids (DT)
- 90703 Tetanus toxoid
- 90704 Mumps virus vaccine, live
- 90705 Measles virus vaccine, live, attenuated
- 90706 Rubella virus vaccine, live
- 90707 Measles, mumps and rubella virus vaccine, live
- 90708 Measles, and rubella virus vaccine, live
- 90709 Rubella and mumps virus vaccine, live
- 90710 Measles, mumps, rubella, and varicella vaccine
- 90711 Diphtheria, tetanus, and pertussis (DTP) and injectable poliomyelitis vaccine
- 90712 Polio virus vaccine, live, oral (any type (s))

- 90716 Varicella (chicken pox) vaccine
- 90720 Diphtheria, tetanus, and pertussis (DTP) and Hemophilus influenza B (HIB) vaccine
- 90737 Hemophilus influenza B

New Patient

- 99381 Initial evaluation and management of a healthy individual requiring a comprehensive history, a comprehensive examination, the identification of risk factors, and the ordering of appropriate laboratory/diagnostic procedures, new patient; infant (age under 1 year)
- 99382 early childhood (age 1 through 4 years) (99381)
- 99383 late childhood (age 5 through 11 years) (99381)

Established Patient

- 99391 Periodic reevaluation and management of a healthy individual requiring a comprehensive history, comprehensive examination, the identification of risk factors and the ordering of appropriate laboratory/diagnostic procedures, established patient; infant (age under 1 year)
- 99392 early childhood (age 1 through 4 years) (99391)
- 99393 late childhood (age 5 through 11 years) (99391)
- 99178 Administration and medical interpretation of developmental tests
- 81000 Urinalysis
- 84030 Phenylalanine (PKU), blood
- 86580 Tuberculosis-intradermal
- 86585 Tuberculosis, tine test

B. Uniform Billing Code Numbers (UB-82)

PLACE OF SERVICE CODES

<u>Field Values</u>		<u>Report As:</u>
10	Hospital, inpatient	Inpatient
1S	Hospital, affiliated hospice	Inpatient
1Z	Rehabilitation hospital, inpatient	Inpatient
20	Hospital, outpatient	Outpatient
2F	Hospital-based ambulatory surgical facility	Outpatient
2S	Hospital, outpatient hospice services	Outpatient
2Z	Rehabilitation hospital, outpatient	Outpatient
30	Provider's office	Outpatient
3S	Hospital, office	Outpatient
40	Patient's home	Outpatient
4S	Hospice (Home hospice services)	Outpatient
51	Psychiatric facility, inpatient	Inpatient
52	Psychiatric facility, outpatient	Outpatient
53	Psychiatric day-care facility	Partial Hospitalization
54	Psychiatric night-care facility	Partial Hospitalization
55	Residential substance abuse treatment facility	Inpatient
56	Outpatient substance abuse treatment facility	Outpatient
60	Independent clinical laboratory	Outpatient
70	Nursing home	Inpatient
80	Skilled nursing facility/extended care facility	Inpatient
90	Ambulance; ground	Outpatient
9A	Ambulance; air	Outpatient
9C	Ambulance; sea	Outpatient
00	Other unlisted licensed facility	Outpatient

GOVERNOR

EXECUTIVE ORDER NUMBER THIRTY-NINE (95)

EXECUTIVE BRANCH LEGISLATIVE COORDINATION

By virtue of the authority vested in me under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.1-39.1 and 2.1-41.1 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures for the coordination of legislative activities of all Executive Branch agencies, institutions and employees.

GENERAL PROVISIONS

The policies and procedures set forth herein are directed to the following purposes:

- * To ensure that all legislation proposed by the Executive Branch is consistent with the principles and policies established by the Governor;
- * To ensure that all legislation proposed by the Executive Branch is necessary for the efficient and effective operation of state government and is responsive to the needs and priorities of citizens of the Commonwealth;
- * To provide for the assessment of the policy and fiscal impact of all proposed legislation under consideration by the General Assembly;
- * To facilitate development of the Executive Branch's position regarding proposed legislation before, during, and after each session of the General Assembly;
- * To ensure the accurate and authoritative communication of the Executive Branch's position on proposed legislation to the General Assembly, its committees, and individual members;
- * To provide for the accurate and authoritative communication of the Executive Branch's position on proposed legislation for the guidance of all Executive Branch agencies, institutions and employees; and
- * To ensure that Executive Branch personnel are made available to assist the work of legislative committees and that members of the General Assembly are afforded timely access to information from Executive Branch agencies and institutions upon request.

The Governor's Policy Office shall, with the assistance of the Department of Planning and Budget, oversee the implementation of the policies and procedures set forth in this Executive Order, and shall perform the central coordinating function in support of the Governor's legislative initiatives and in the development of the Executive Branch's position on proposed, pending, and

enrolled legislation.

The Governor's Secretaries shall coordinate the development of agency and secretariat recommendations on all proposed, pending, and enrolled legislation, and shall oversee communications between Executive Branch agencies and the General Assembly.

All Executive Branch agencies, institutions, and employees shall assist and cooperate fully with the Governor's Secretaries, the Department of Planning and Budget, and the Governor's Policy Office in the implementation of this Executive Order.

SPECIFIC PROVISIONS

A. Review and Approval of Agency Legislative Proposals

1. *Prior Approval Required.* No Executive Branch agency or institution shall cause proposed legislation to be drafted by the Division of Legislative Services, nor obtain a patron for proposed legislation, nor procure the introduction of any proposed legislation, without the prior approval of the responsible Governor's Secretary and the Governor's Policy Office.
2. *Review Process and Time Line.* The Chief of Staff to the Governor shall annually cause instructions to be delivered to all Executive Branch agencies setting forth the process and time lines for review of agency legislative proposals by the Department of Planning and Budget, the responsible Governor's Secretary, and the Governor's Policy Office.
3. *Employee Obligations.* Executive Branch employees shall comply with the review and approval process required under paragraphs A.1 and A.2 with respect to any legislation that pertains to the subject matter of the employee's official duties. Employees may not circumvent this requirement by informally approaching members of the General Assembly regarding the sponsorship or initiation of legislation.
4. *Decisions by Governor; Implementation.* Upon approval of an agency legislative proposal by the Governor, the Governor's Policy Office shall notify the responsible Governor's Secretary of the approval of the proposal. The responsible Governor's Secretary then shall notify the proposing agency and shall arrange for the preparation of the legislation in a form appropriate for introduction.
5. *Introduction of Legislation; Tracking; Support.* The Governor's Policy Office shall designate one or more patrons for each approved agency legislative proposal, and shall coordinate the introduction of all Executive Branch legislative proposals. The Department of Planning and Budget thereafter shall track the progress of all such legislative proposals and shall make such information available daily to the Governor's Secretaries and the Governor's Policy

Governor

Office. The responsible Governor's Secretary shall ensure that the sponsoring agency provides all necessary committee testimony and other activity in support of each legislative proposal.

6. *Exemptions.* The procedures in paragraphs A.1 - A.5 shall apply to all legislative proposals initiated by the Executive Branch. Any exemptions from the procedures set forth above, or from the procedures and time lines established pursuant thereto, shall be approved by the Governor's Policy Office.

B. Review and Decisions on Pending Legislation

1. *Agency Preparation of Legislative Action Summary.* Each Executive Branch agency and institution shall closely monitor all legislation as it is introduced in the General Assembly and shall determine which legislative proposals relate to matters within the jurisdiction and responsibility of the agency. As soon as practicable, but no more than four business days following introduction of legislation, the affected agency shall prepare and forward to the responsible Governor's Secretary a Legislative Action Summary (LAS) setting forth the agency's analysis and recommended position regarding the legislation.

2. *Review by Governor's Secretaries.* For each legislative proposal introduced in the General Assembly, the responsible Governor's Secretary shall review the Legislative Action Summary prepared by each affected agency, shall record his or her recommendation on the Legislative Action Summary, and shall forward the Legislative Action Summary to the Governor's Policy Office. Where agencies in more than one secretariat submit Legislative Action Summaries, the responsible Secretaries shall coordinate their recommendations prior to forwarding the Legislative Action Summaries to the Governor's Policy Office. The Governor's Secretaries shall ensure that Legislative Action Summaries are forwarded to the Governor's Policy Office as soon as practicable, but no less than four days before the legislation is to be considered in committee.

3. *Determination by Governor; Notification.* The Governor's Policy Office shall coordinate the Governor's review of Legislative Action Summaries and shall notify the responsible Governor's Secretary following the Governor's determination. The Governor's Secretary shall then notify the affected agency or agencies.

4. *Supplementation of Legislative Action Summary.* The affected agency shall prepare and forward to the responsible Governor's Secretary a supplemental or substitute Legislative Action Summary whenever, during the General Assembly's consideration of the legislation, there is proposed a significant substantive change that would render the previous Legislative Action Summary inaccurate or incomplete. In

situations where time clearly does not permit submission of a supplemental or substitute Legislative Action Summary, the affected agency shall notify the Secretary of the change and time constraints, and the Secretary shall notify the Governor's Policy Office. Such notification may be verbal or may be transmitted electronically.

5. *Confidentiality; Governor's Working Papers Exemption.* All draft and completed Legislative Action Summaries and all documents used in the preparation of Legislative Action Summaries shall be, and shall be marked as, confidential Governor's working papers exempt from disclosure under the Virginia Freedom of Information Act, regardless of whether such documents are in the possession of Executive Branch Agencies, the Offices of the Governor's Secretaries, or the Governor's Office.

C. Coordination of Legislative Committee Testimony

1. *Tracking By Affected Agencies.* Each Executive Branch agency or institution shall track pending legislation that is within the agency's jurisdiction and responsibility, and shall maintain a current status list of all such legislation in a format prescribed by the Department of Planning and Budget. An up-to-date status list prepared by each agency and institution shall be provided weekly to the Department of Planning and Budget, which shall distribute it to the Governor's Secretaries and the Governor's Policy Office.

2. *Testimony By Affected Agencies.* With respect to pending legislation that is within the agency's jurisdiction and responsibility, each Executive Branch agency shall be responsible for providing testimony before legislative committees and taking other such actions as are necessary to facilitate consideration of the legislation by the General Assembly, subject to the approval of the responsible Governor's Secretary.

3. *Oversight by Governor's Secretaries.* The Governor's Secretaries shall oversee and coordinate the legislative support and informational activities of all agencies and institutions under their supervision. The Governor's Secretaries shall ensure that appropriate representatives of the Executive Branch are in attendance and prepared to provide testimony before all legislative committees. The Governor's Secretaries shall coordinate generally with the Governor's Policy Office regarding arrangements for the provision of testimony before legislative committees.

4. *Prior Notification of Committee Testimony.* No Executive Branch employee may testify before a legislative committee, or contact members of the General Assembly, for the purpose of influencing the initiation or disposition of legislation concerning a policy matter (other than working conditions) within the scope of the employee's official duties, unless the

employee first notifies the responsible Governor's Secretary of the time, place, and substance of the expected testimony or contact. The Governor's Secretaries may in their discretion waive the requirement of specific notice from designated Executive Branch personnel engaged in regular liaison with the Legislative Branch, subject to such conditions and standing instructions as the Secretaries may provide with any such waiver.

5. *Legislators' Access to Information.* Nothing herein shall be construed or applied so as to limit the ability of the General Assembly, or any member, committee, or commission thereof, from obtaining information in the possession of state agencies and institutions as provided by law.

D. Review of Enrolled Legislation

1. *Coordination; Adherence to Time Lines.* The Governor's Policy Office shall, with the assistance of the Department of Planning and Budget, coordinate the Governor's review of enrolled bills, and shall prescribe procedures and prepare forms to ensure an orderly and efficient enrolled bill review process. Because severe time constraints frequently exist during this process, all Executive Branch agencies, institutions and employees shall comply strictly with the time lines and procedures prescribed pursuant hereto.

2. *Review by Governor's Secretaries.* The Governor's Secretaries shall make recommendations to the Governor regarding his action on all enrolled bills, and shall ensure timely compliance with enrolled bill review procedures by the agencies and employees within each Secretary's supervision.

3. *Confidentiality; Governor's Working Papers Exemption.* All draft and completed forms and other documents used in the enrolled bill review process shall be, and shall be marked as, confidential Governor's working papers exempt from disclosure under the Virginia Freedom of Information Act, regardless of whether such documents are in the possession of Executive Branch agencies, the Offices of the Governor's Secretaries, or the Governor's Office.

This Executive Order supersedes and rescinds Executive Order Number Twelve (90), Legislative Coordination, issued July 26, 1990, by Governor L. Douglas Wilder, and Executive Memorandum 3-94, Executive Branch Legislative Coordination, which I issued on January 20, 1994.

This Executive Order will become effective upon its signing and will remain in full force and effect until June 30, 1998, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 3rd day of January, 1995.

/s/ George Allen
Governor

V.A.R. Doc. No. R95-233; Filed January 5, 1995, 12:56 p.m.

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: **VR 270-01-0009. Regulations Governing Literary Loan Applications in Virginia.**

Governor's Comment:

I have no objection to the proposed regulation based on the information and public comments currently available. This proposed regulation will help to ensure that Literary Fund loans are distributed equitably. I concur that the final proposed regulation as adopted by the Board become effective.

/s/ George Allen
Governor

Date: December 28, 1994

V.A.R. Doc. No. R95-238; Filed January 6, 1995, 2:57 p.m.

Title of Regulation: **VR 270-01-0060. Minimum Standards for the Accreditation of Child Day Programs Serving Children of Preschool Age or Younger in Public Schools.**

Governor's Comment:

While the proposed regulation would comply with a 1993 state legislative requirement, the state law only requires, at a minimum, the standards required of private day care programs. This regulation would place more restrictive requirements on school divisions operating day care programs than those currently placed on private day care programs. I recommend that this regulation be amended to reflect the minimum statutory requirements.

/s/ George Allen
Governor

Date: December 28, 1994

V.A.R. Doc. No. R95-234; Filed January 6, 1995, 2:56 p.m.

Title of Regulation: **VR 270-01-0061. Minimum Standards for the Accreditation of Child Day Programs Serving School Age Children Offered in Public Schools.**

Governor's Comment:

Governor

While the proposed regulation would comply with a 1993 state legislative requirement, the state law only requires, at a minimum, the standards required of private day care programs. This regulation would place more restrictive requirements on school divisions operating day care programs than those currently placed on private day care programs. I recommend that this regulation be amended to reflect the minimum statutory requirements.

/s/ George Allen
Governor
Date: December 28, 1994

VA.R. Doc. No. R95-235; Filed January 6, 1995, 2:57 p.m.

regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: December 28, 1994

VA.R. Doc. No. R95-237; Filed January 6, 1995, 2:57 p.m.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-32-500. Regulations Governing the Emergency Medical Services Do Not Resuscitate Program.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: December 28, 1994

VA.R. Doc. No. R95-236; Filed January 6, 1995, 2:57 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Expanded Coverage for Children Ages 6 to 19.

VR 460-02.2100:1. Coverage and Conditions of Eligibility (Attachment 2.2-A).

VR 460-02-2.6100:1. Eligibility Conditions and Requirements (Attachment 2.6-A).

VR 460-03-2.6101:1. Income Eligibility Levels (Supplement 1 to Attachment 2.6-A).

VR 460-03-2.6108.1. More Liberal Income Disregards (Supplement 8a to Attachment 2.6-A).

VR 460-03-2.6108.2. More Liberal Methods of Treating Resources under § 1902(r)(2) of the Act (Supplement 8b to Attachment 2.6-A).

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed

SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in The Virginia Register of Regulations on July 11, 1994 (10:21 V.A.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in The Virginia Register of Regulations. This section of The Virginia Register has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

DEPARTMENT OF FORESTRY

Notice of Review of Existing Regulations for the State Forest Lands

Pursuant to Executive Order Number Fifteen (94), the Department of Forestry is publishing this notice to inform the public that the regulations listed below will be reviewed to determine if they should be continued, amended, or repealed:

VR 312-01-03. State Forest Regulation.

VR 312-01-04. Reforestation of Timberlands Regulations.

Procedures for Submitting Comments:

Written comments on the above regulations must be received no later than March 7, 1995, to be considered in the regulation review. Comments should begin by identifying the regulation by VR number and regulation title.

Please mail comments to Ronald S. Jenkins, Department of Forestry, P.O. Box 3758, Fontaine Research Park, 900 Natural Resources Drive, Charlottesville, Virginia 22903. Comments may be faxed to (804) 293-2768, if the original paperwork is also mailed.

Contact: Ronald S. Jenkins, Department of Forestry, P.O. Box 3758, Fontaine Research Park, 900 Natural Resources Drive, Charlottesville, Virginia 22903, telephone (804) 977-6555 or FAX (804) 293-2768.

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

DEPARTMENT OF HEALTH

Waterworks Regulations

General Notice Requesting Comment on Recycle of Certain Drinking Water Plant Wastewaters

Recent concerns of health threats posed by *Cryptosporidium* and *Giardia* are among the issues of the recycled flow of certain drinking water treatment plant waste waters (not including sanitary wastewater). This recycled flow would be conveyed to the first step in the drinking water treatment process. Such flows may contain concentrated elements that may increase risks to the proper treatment of the drinking water.

Although recycle is not directly addressed under current regulation, the Department of Health's engineering staff make situation specific decisions in their review of proposed construction designs or modifications to existing drinking water treatment plants.

The Department of Health is determining the need to develop a regulation addressing this issue. The department is interested in your comments relative to the need for regulation and content of any such regulation or alternatives to the development of a regulation. If the comment is such as to merit proceeding with the regulatory process, the regulatory process will be initiated in compliance with the Administrative Process Act and Governor's Executive Order Number 13(94).

Written comments on this issue should be submitted by Wednesday, February 15, 1995, to Thomas B. Gray, P.E., Office of Water Programs, Room 109, Department of Health, P.O. Box 2448, Richmond, VA 23218, Voice (804) 786-5566; FAX (804) 786-5567.

General Notice Requesting Comment on Viability and Comprehensive Business Plan for Certain Drinking Water Systems

Concerns, both statewide and nationwide, have focused on certain owners of waterworks that do not have the financial, technical, managerial, and operational capabilities necessary for the long-term operation of this important health-related activity. Some waterworks are created in conjunction with some other business venture and are not given due planning consideration as a

waterworks. There are existing waterworks that, for various reasons, cannot maintain compliance with federal and state regulations.

During 1993, the State Water Commission heard testimony on this issue and the 1994 General Assembly enacted clarifying and mandatory statutory language directing the Department of Health to recognize these capabilities relative to an owner's ability to provide safe drinking water (§§ 32.1-169 and 32.1-172 of the Code of Virginia).

The Department of Health is determining the need to develop a regulation addressing this issue. The department is interested in your comments relative to the need for regulation and content of any such regulation or alternatives to the development of a regulation. If the comment is such as to merit proceeding with the regulatory process, the regulatory process will be initiated in compliance with the Administrative Process Act and Governor's Executive Order Number 13(94).

Written comments on this issue should be submitted by Wednesday, February 15, 1995, to Thomas B. Gray, P.E., Office of Water Programs, Room 109, Department of Health, P.O. Box 2448, Richmond, VA 23218, Voice (804) 786-5566; FAX (804) 786-5567.

VIRGINIA CODE COMMISSION

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 FAX two copies and do not follow up with a mailed copy. Our FAX number is: 692-0625.

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:

DEPARTMENT OF HEALTH

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 OBJECTIONS - RR08

Title of Regulation: VR 355-17-200. Biosolids Use Regulations.

Publication: 11:7 V.A.R. 1021-1082 December 26, 1994.

Correction to Final Regulation:

Page 1050, column 1, paragraph 3, should read:

"7. Record keeping. A manifest system shall be developed, implemented and maintained [~~on site and~~ be available for inspection during operations] as part of the overall daily record keeping for the project (see Appendix A)."

ERRATA

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision JJ - Federal Operating Permits for Stationary Sources).

Publication: 11:8 V.A.R. 1198-1237 January 9, 1995.

Correction to Final Regulation:

Page 1210, § 120-08-0506 C, line 2, unstrike " an"

Page 1213, § 120-08-0507 N 3, line 12, change "provision" to "provisions"

Page 1225, § 120-08-0524 B 3 b, line 1, after "b. The board shall not allow" strike "an on-permit" and insert "a"

Page 1225, § 120-08-0524 B 3 b, column 2, line 1, change "subsection C" to "subdivision B 3"

Page 1234, Appendix W, II B 4, line 1, after " of [12 pounds" insert " less than"

* * * * *

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision KK - Permit Program Fees for Stationary Sources).

Publication: 11:8 V.A.R. 1237-1250 January 9, 1995.

Correction to Final Regulation:

Page 1241, § 120-08-0604 E, line 3, change the plus sign (+) to a division sign (÷)

Page 1247, Appendix W, II B 4, line 2, after " of [12 pounds" insert " less than"

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

Title of Regulation: VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services.

Publication: 11:6 V.A.R. 865-893 December 12, 1994.

Correction to Final Regulation:

Page 887, column 2, § 4.25, line 3, change "cannot" to "shall not"

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 OF AGRICULTURE AND CONSUMER SERVICES

Virginia Corn Board

February 15, 1995 - 9 a.m. – Open Meeting

February 16, 1995 - 9 a.m. – Open Meeting

Williamsburg Hilton and Conference Center, 50 Kingsmill Road, Williamsburg, Virginia. ☒

A meeting to review projects currently underway and to consider projects for FY 95-96. 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 in the meeting should contact Rosser Cobb at least five days before the meeting date so that suitable arrangements can be made.

Contact: Rosser Cobb, Program Director, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

Virginia Horse Industry Board

February 9, 1995 - 10 a.m. – Open Meeting

Washington Building, 1100 Bank Street, 2nd Floor Conference Room, Richmond, Virginia. ☒

A regular meeting. 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 Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist, Virginia Horse Industry Board, 1100 Bank St., #906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD ☎

Virginia Peanut Board

† **March 8, 1995 - 10 a.m.** – Open Meeting
Tidewater Agricultural Research and Extension Center, Suffolk, Virginia. ☒

A meeting to review peanut research projects for possible funding in 1995. Any person who needs any accommodation in order to participate in the meeting should contact Russell Schools at least four days before the meeting so that suitable arrangements can be made. 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, Virginia Peanut Board, P.O. Box 356, Capron, VA 23829, telephone (804) 658-4573.

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

February 6, 1995 - 9:30 a.m. – Open Meeting

February 22, 1995 - 9:30 a.m. – Open Meeting

Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Virginia Alcoholic Beverage Control Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712.

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

† **February 23, 1995 - 9 a.m.** – Open Meeting

† **February 24, 1995 - 9 a.m.** – Open Meeting

Department of Professional and Occupational Regulation,

3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The Land Surveyor Section will conduct an examination workshop to compile the Virginia State Land Surveyor A and B examinations for the April 1995 administration.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

Board for Architects

† **February 24, 1995 - 9 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regularly scheduled board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Mark Courtney at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

AUCTIONEERS BOARD

February 12, 1995 – 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 Auctioneers Board intends to repeal regulations entitled: **VR 150-01-2, Rules and Regulations for the Virginia Board of Auctioneers** and adopt regulations entitled: **VR 150-01-2:1, Rules and Regulations for the Virginia Board of Auctioneers**. The proposed regulations establish entry requirements for licensure of auctioneers and auction firms, examination for licensure, licensure by reciprocity, standards of practice regarding advertising, contracts, escrow accounts, records and standards of conduct for auctioneers. The proposed regulations are a result of legislative amendments enacted to § 54.1-603 of the Code of Virginia which repealed the registration and certification program for auctioneers and established a single licensure program.

Statutory Authority: §§ 54.1-201 and 54.1-602 of the Code of Virginia.

Contact: Mark N. Courtney, Assistant Director, Auctioneers

Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

February 23, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A regularly scheduled board meeting. Agenda items include adoption of regulatory review analysis on public participation guidelines. Public comment will be received at the beginning of the meeting for 15 minutes.

Contact: Lisa Russell Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

VIRGINIA AVIATION BOARD

† **February 21, 1995 - 3 p.m.** – Open Meeting
Department of Aviation, 5702 Gulfstream Road, Sandston, Virginia. ☎ (Interpreter for the deaf provided upon request)

A workshop for the Virginia Aviation Board. No formal actions will be taken. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

† **February 22, 1995 - 9 a.m.** – Open Meeting
Sheraton Inn-Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bi-monthly meeting of the board. Applications for state funding will be presented to the board, and other matters of interest to the Virginia aviation community will be discussed. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

BOARD FOR BARBERS

February 6, 1995 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

Calendar of Events

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

† **February 12, 1995 - 9 a.m.** – Open Meeting
† **February 13, 1995 - 9 a.m.** – Open Meeting
† **March 12, 1995 - 9 a.m.** – Open Meeting
† **March 13, 1995 - 9 a.m.** – Open Meeting
3813 Gaskins Road, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board will meet to conduct an examination workshop for the state barber written, practical, and instructor examinations.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **February 17, 1995 - 10 a.m.** – Open Meeting
Department of Housing and Community Development, Jackson Center, 501 North Second Street, 1st Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board hears administrative appeals concerning building and fire codes and other regulations of the department. The board also issues interpretations and formalizes recommendations to the Board of Housing and Community Development concerning future changes to the regulations.

Contact: Vernon W. Hodge, Building Code Supervisor, State Building Code Office, Department of Housing and Community Development, Jackson Center, 501 N. Second St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TDD ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Central Area Review Committee

February 16, 1995 - 2 p.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 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

February 16, 1995 - 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 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

February 22, 1995 - 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 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 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 CHILDREN'S FACILITIES

Coordinating Committee

† **February 17, 1995 - 1:30 p.m.** – Open Meeting
Department of Social Services, 730 East Broad Street, Office of Coordinator, Richmond, Virginia. ☎

A regularly scheduled meeting to consider such administrative matters and policy issues as may be

presented to the committee. A period for public comment is provided.

Contact: John J. Allen, Jr., Coordinator, Interdepartmental Regulation, Office of Coordinator, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1960.

COMPENSATION BOARD

† **March 2, 1995 - 1 p.m.** – Open Meeting
† **March 30, 1995 - 1 p.m.** – Open Meeting
Ninth Street Office Building, 202 North Ninth Street, Room 913/913A, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A routine meeting to conduct business.

Contact: Bruce W. Haynes, Executive Secretary, Compensation Board, P.O. Box 710, Richmond, VA 23206-0686, telephone (804) 786-3886/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

† **February 15, 1995 - 10 a.m.** – Open Meeting
Department of Conservation and Recreation, 203 Governor Street, Conference Room 200, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting of the Department of Conservation and Recreation's Ad Hoc Advisory Committee to assist the department with the development of VR 217-02-00, Nutrient Management Training and Certification Regulations. The department will solicit issues needing to be addressed and changes to be considered in modifying a preliminary draft of the proposed regulations. Any person requesting an interpreter for the deaf should contact Mr. Perkinson by 4 p.m., February 9, 1995.

Contact: H.R. Perkinson, Manager, Nutrient Management Program, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064, FAX (804) 786-1798 or (804) 786-2121/TDD ☎

Goose Creek Scenic River Advisory Board

† **February 22, 1995 - 2 p.m.** – Open Meeting
George Washington University, Route 7, Xerox Office Park, Loudoun County, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

BOARD FOR CONTRACTORS

Recovery Fund Committee

† **March 15, 1995 - 9 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 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. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Holly Erickson. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance for consideration of your request.

Contact: Holly Erickson, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23219, telephone (804) 367-8561.

BOARD OF CORRECTIONS

February 15, 1995 - 10 a.m. – Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☒

A meeting to discuss matters as may be presented to the board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Administration Committee

February 15, 1995 - 8:30 a.m. – Open Meeting
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia. ☒

A meeting to discuss administration matters which may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Correctional Services Committee

February 14, 1995 - 1 p.m. – Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☒

A meeting to discuss criminal justice matters which may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department

Calendar of Events

of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

March 27, 1995 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

DEPARTMENT OF EDUCATION (BOARD OF)

March 10, 1995 – 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 Education intends to amend regulations entitled: **VR 270-01-0014. Management of the Student's Scholastic Record in the Public Schools of Virginia.** The purpose of the proposed amendment is to require adherence by local education agencies to applicable state and federal laws regarding the management of student records.

Statutory Authority: §§ 22.1-16, 22.1-287.1, 22.1-288.2, and 22.1-289 of the Code of Virginia and § 4 of Article VIII of the Constitution of Virginia.

Contact: Thomas A. Elliott, Division Chief, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 371-2522 or toll-free 1-800-292-3820.

LOCAL EMERGENCY PLANNING COMMITTEE - SCOTT COUNTY

† **March 21, 1995 - 1:30 p.m.** – Open Meeting
County Office Building, 112 Water Street, Gate City, Virginia. ☎

An update of SARA Title III for Scott County.

Contact: Barbara Edwards, Public Information Officer, 112 Water Street, Suite 1, Gate City, VA 24251, telephone (703) 386-6521 or FAX (703) 386-9198.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Technical Advisory Committee on Financial Assurance Regulations for Solid Waste Management Facilities

† **February 10, 1995 - 10 a.m.** – Open Meeting
Department of Environmental Quality, 629 East Main Street, 4th Floor Conference Room, Richmond, Virginia. ☎

A meeting to assist the Department of Environmental Quality in formulation of the draft of the Financial Assurance Regulations.

Contact: Wladimir Gulevich, Ph.D., P.E., Director, Office of Regulation Planning and Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4218, FAX (804) 762-4224 or (804) 762-4021/TDD ☎

Technical Advisory Committee on Vegetative Waste Management and Yard Waste Composting Regulations

† **February 9, 1995 - 9:30 a.m.** – Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ☎

A meeting to assist the Department of Environmental Quality in formulation of the draft of the Vegetative Waste Management and Yard Waste Composting Regulations.

Contact: Robert G. Wickline, P.E., Department of Environmental Quality, Waste Management Division, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4213, FAX (804) 762-4224 or (804) 762-4021/TDD ☎

VIRGINIA FIRE SERVICES BOARD

February 16, 1995 - 7:30 p.m. – Public Hearing
Holiday Inn, Ashland, Virginia.

A public hearing to discuss fire training and policies. The hearing is open to the public for input and comments.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Programs, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

February 17, 1995 - 9 a.m. – Open Meeting
Holiday Inn, Ashland, Virginia.

A meeting to discuss training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Services, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire/EMS Education and Training Committee

February 16, 1995 - 10 a.m. – Open Meeting
Holiday Inn, Ashland, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for input and comments.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Programs, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control Committee

February 16, 1995 - 9 a.m. – Open Meeting
Holiday Inn, Ashland, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for input and comments.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Programs, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

February 16, 1995 - 1 p.m. – Open Meeting
Holiday Inn, Ashland, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for input and comments.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Programs, 2807 N. Parham Road., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

February 7, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A regularly scheduled board meeting. Public comment will be received at the beginning of the meeting for 15 minutes.

Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

Legislative Committee

February 6, 1995 - 3 p.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A meeting to continue existing review of law and regulations governing the funeral industry. Public comment will be received at the beginning of the

meeting for 15 minutes.

Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

BOARD OF GAME AND INLAND FISHERIES

† **March 16, 1995 - 10 a.m.** – Open Meeting

† **March 17, 1995 - 10 a.m.** – Open Meeting

Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ☎

The board will meet to consider wildlife regulations to be effective July 1995 through June 1997. The board will determine whether or not any of these proposed regulations, or other alternative regulatory language, should be adopted as final regulations. In addition, general and administrative matters will be discussed. The board may hold an executive session.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341.

BOARD FOR GEOLOGY

† **February 16, 1995 - 9 a.m.** – Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board will conduct an examination writing and review workshop.

Contact: William H. Ferguson, II, Board Administrator, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8307 or (804) 367-9753/TDD ☎

† **February 17, 1995 - 9 a.m.** – Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board will conduct a regular business meeting to review correspondence, applications, disciplinary matters, and other matters of the board.

Contact: William H. Ferguson, II, Board Administrator, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8307 or (804) 367-9753/TDD ☎

DEPARTMENT OF HEALTH (STATE BOARD OF)

February 24, 1995 – Written comments may be submitted through this date.

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-28-300. Regulations for the Immunization of School Children.** Chapter 62 of the 1994 Acts of the General Assembly (HB 1280) requires that children born on or after January 1, 1994, be immunized against hepatitis B before their first birthday. The regulations are being amended to add hepatitis B vaccine to the list of vaccines already required for children to be admitted to day care centers and schools.

Statutory Authority: §§ 22.1-271.2 and 32.1-46 of the Code of Virginia.

Contact: Martin Cader, M.D., Director, Division of Communicable Disease Control, Department of Health, P.O. Box 2448, Room 113, Richmond, VA 23218, telephone (804) 786-6261 or FAX (804) 786-1076.

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February 10, 1995 - 9 a.m. – Public Hearing
3600 Centre, 3600 West Broad Street, 3rd Floor Conference Room, Richmond, Virginia.

February 15, 1995 - 10 a.m. – Public Hearing
NOTE: CHANGE IN LOCATION
Holiday Inn Crowne Plaza, 601 Main Street, Lynchburg, Virginia.

February 27, 1995 – 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 State Board of Health intends to amend regulations entitled: **VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia (Neonatal Services).** Pursuant to the Commonwealth's commitment to reduce infant mortality, the proposed regulations establish a service level distinction based upon national standards to ensure treatment of a range of neonates from normal newborns to the sickest, high-risk newborns. The proposed regulations are the minimum quality assurance standards that must be uniformly met if hospitals want to provide neonatal services in the Commonwealth.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on February 27, 1995, to Nancy R. Hofheimer, Director of the Office of Health Facilities Regulation, Department of Health, 3600 W. Broad Street, Suite 216, Richmond, Virginia 23230.

Contact: Stephanie Sivert, Director, Acute Care Service, Department of Health, Office of Health Facilities Regulation, 3600 W. Broad St., Richmond, VA 23230,

telephone (804) 367-2104 or FAX (804) 367-2149.

BOARD OF HEALTH PROFESSIONS

February 6, 1995 - 6 p.m. – Open Meeting
Hyatt Hotel, 6624 West Broad Street, The Potomac Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

An Executive Committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

February 7, 1995 - 8 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Ad hoc Levels of Regulation Committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

February 7, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Compliance and Discipline Committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

February 7, 1995 - 10:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Practitioner Self-Referral Committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

February 7, 1995 - 11 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A full board meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

February 7, 1995 - Noon – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Professional Education and Public Affairs Committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

February 28, 1995 - 9:30 a.m. – Open Meeting
Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☒

A monthly meeting.

Contact: Kim Bolden Walker, Public Relations Coordinator, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

BOARD FOR HEARING AID SPECIALISTS

† **March 13, 1995 - 9 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The board will conduct a Cut Score Study for the hearing aid specialist written examination.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

February 21, 1995 - 10 a.m. – Open Meeting
Omni Hotel, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

March 14, 1995 - 9:30 a.m. – Open Meeting
Council of Higher Education, 101 North 14th Street,

Council Conference Room, Richmond, Virginia. ☒

A general business meeting. Contact the council for more information.

Contact: Anne M. Pratt, Associate Director, State Council of Higher Education, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2639.

VIRGINIA HISTORIC PRESERVATION FOUNDATION

February 8, 1995 - 10:30 a.m. – Open Meeting
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A general business meeting.

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX (804) 225-4261 or (804) 786-1934/TDD ☎

DEPARTMENT OF HISTORIC RESOURCES

Historic Resources Board

February 15, 1995 - 10 a.m. – Open Meeting
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A general business meeting.

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX (804) 225-4261 or (804) 786-1934/TDD ☎

State Review Board

February 14, 1995 - 10 a.m. – Open Meeting
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and to the National Register of Historic Places:

1. Buffalo Church, Prince Edward County
2. Hunting Quarter, Sussex County
3. Malvern, Albemarle County
4. Robert Russa Moton High School, Prince Edward County
5. Rockbridge Inn, Rockbridge County

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St.,

Calendar of Events

Richmond, VA 23219, telephone (804) 786-3143, FAX (804) 225-4261 or (804) 786-1934/TDD ☎

VIRGINIA HIV PREVENTION COMMUNITY PLANNING COMMITTEE

March 3, 1995 - 8 a.m. – Open Meeting

Holiday Inn Historic District, 301 West Franklin Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee will continue its activities in planning HIV prevention for Virginia. The committee will discuss counseling and testing programs.

Contact: Elaine G. Martin, Coordinator AIDS Education, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-0877, toll-free 1-800-533-4148/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

February 7, 1995 - 9 a.m. – Open Meeting

March 7, 1995 - 9 a.m. – Open Meeting

Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **February 21, 1995 - 11 a.m. – Open Meeting**

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes for 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 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.

COUNCIL ON INFORMATION MANAGEMENT

† **February 10, 1995 - 10 a.m. – Open Meeting**

Department of Information Technology, 110 South 7th Street, 4th Floor Auditorium, Richmond, Virginia. ☒

The Virginia Technology Infrastructure Task Force '95, led by the Council on Information Management, will hear presentations from technology vendors in response to application requirements of state agencies and institutions of higher education to assist in the development of a comprehensive plan for telecommunications and information technology in the Commonwealth.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

VIRGINIA INTERAGENCY COORDINATING COUNCIL

† **March 22, 1995 - 9:30 a.m. – Open Meeting**

Henrico Area Mental Health and Mental Retardation Services, 10299 Woodman Road, Richmond, Virginia. ☒

A quarterly meeting of the council to discuss issues relating to the implementation of a comprehensive system of early intervention services for infants and toddlers with disabilities and their families.

Contact: Richard Corbett, Department of Mental Health, Mental Retardation, and Substance Abuse Services, Early Intervention, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

LIBRARY BOARD

† **March 13, 1995 - 10:30 a.m. – Open Meeting**

Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☒

A meeting to discuss administrative matters of the Library of Virginia.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Archives and Records Management Committee

† **March 13, 1995 - 8 a.m. – Open Meeting**

Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Conference Room B, Richmond, Virginia. ☒

A meeting to discuss matters pertaining to archives

and records management at the Library of Virginia.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Automation and Networking Committee

† **March 13, 1995 - 8:45 a.m.** – Open Meeting
Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Conference Room B, Richmond, Virginia. ☒

A meeting to discuss matters pertaining to automation and networking related to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

By-Laws Committee

† **March 13, 1995 - 10:15 a.m.** – Open Meeting
Library of Virginia, 11th Street at Capitol Square, Office of the State Librarian, Richmond, Virginia. ☒

A meeting to discuss possible revisions to the by-laws of the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Executive Committee

† **March 12, 1995 - 6 p.m.** – Open Meeting
Omni Richmond Hotel, 100 South 12th Street, Richmond, Virginia. ☒

A meeting to discuss matters pertaining to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

General Library Committee

† **March 13, 1995 - 8 a.m.** – Open Meeting
Library of Virginia, 11th Street at Capitol Square, Director's Office, Richmond, Virginia. ☒

A meeting to discuss general library matters as they relate to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Legislative and Finance Committee

† **March 13, 1995 - 9:30 a.m.** – Open Meeting

Library of Virginia, 11th Street at Capitol Square, Office of the State Librarian, Richmond, Virginia. ☒

A meeting to discuss legislative and financial matters related to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Nominating Committee

† **March 13, 1995 - 10:15 a.m.** – Open Meeting
Library of Virginia, 11th Street at Capitol Square, Office of the State Librarian, Richmond, Virginia. ☒

A meeting to discuss nominations relating to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Public Library Development Committee

† **March 13, 1995 - 8:45 a.m.** – Open Meeting
Library of Virginia, 11th Street at Capitol Square, Room 4-24, Richmond, Virginia. ☒

A meeting to discuss matters relating to public library development and the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Publications and Cultural Affairs Committee

† **March 13, 1995 - 9:30 a.m.** – Open Meeting
Library of Virginia, 11th Street at Capitol Square, Director's Office, Richmond, Virginia. ☒

A meeting to discuss matters related to publications and cultural affairs and the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

STATE COUNCIL ON LOCAL DEBT

February 15, 1995 - 11 a.m. – Open Meeting
March 15, 1995 - 11 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting; subject to cancellation unless there are action items requiring the council's consideration. Persons interested in attending should call one week prior to the meeting date to ascertain whether or not

Calendar of Events

the meeting is to be held as scheduled.

Contact: Gary Ometer, Debt Manager, Department of the Treasury, P.O. Box 1879, Richmond, VA 23215, telephone (804) 225-4928.

COMMISSION ON LOCAL GOVERNMENT

March 20, 1995 - 11 a.m. – Open Meeting
March 20, 1995 - 7:30 p.m. – Public Hearing
Ashland area; site to be determined.

A meeting and a public hearing regarding the proposed voluntary settlement between the Town of Ashland and Hanover County. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission's office.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 8th Street Office Bldg., Room 702, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

March 21, 1995 - 9 a.m. – Open Meeting
Ashland area; site to be determined.

A regular meeting of the commission to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission's office.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

LONG-TERM CARE COUNCIL

Advisory Committee on Aging, Disability and Long-Term Care Services

† **February 10, 1995 - 10 a.m. – Open Meeting**
Department of Social Services, 730 East Broad Street, Conference Rooms 2 and 3, Richmond, Virginia. ☒

The committee will meet to discuss the regional forums for the plan to ensure the coordination and enhancement of service delivery at the local level.

Contact: Cathy Saunders, Director, Long-Term Care Council, Department of Medical Assistance Services, 600 E. Broad St., Richmond, VA 23219, telephone (804) 225-2912.

STATE LOTTERY BOARD

† **February 28, 1995 - 10 a.m. – Open Meeting**

State Lottery Department, 2201 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular monthly meeting of the board. Business will be conducted according to items listed on the agenda which have not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106 or FAX (804) 367-3116.

VIRGINIA MANUFACTURED HOUSING BOARD

† **March 22, 1995 - 10 a.m. – Open Meeting**
Department of Housing and Community Development, Jackson Center, 501 North Second Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular monthly meeting.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TDD ☎

MARINE RESOURCES COMMISSION

† **February 28, 1995 - 9:30 a.m. – Open Meeting**
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒

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, Marine Resources 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 ☎

BOARD OF MEDICAL ASSISTANCE SERVICES

† **February 7, 1995 - 10 a.m.** – Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☒

A meeting to discuss medical assistance services and take action on issues pertinent to the board.

Contact: Patricia Sykes, Board Liaison, Board of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

February 24, 1995 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-01-11 and VR 460-02-2.1100. Virginia Medicaid Qualifying Health Maintenance Organizations (HMOs)**. The Appropriations Act, passed by the 1994 General Assembly, required the Department of Medical Assistance (DMAS) to implement a health maintenance organization contracting program effective May 1, 1994. Federal regulations at 42 CFR 434.20(c) require that the state define health maintenance organizations in the state plan prior to entering into risk contracts with entities that are not federally qualified health maintenance organizations and that are providing comprehensive services. The regulations define extensive requirements for health maintenance organizations, which the State Corporation Commission's Bureau of Insurance has promulgated as Regulation 28. Rather than promulgate a separate set of regulations, DMAS is incorporating by reference Regulation 28. A new Attachment (2.1 A) is being added to the state plan to define a Medicaid health maintenance organization as required.

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

Written comments may be submitted until February 24, 1995, to Susan Bareford, Department of Medical Assistance Services, 600 East Broad Street, 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.

BOARD OF MEDICINE

February 9, 1995 - 8 a.m. – Open Meeting
February 10, 1995 - 8 a.m. – Open Meeting
February 11, 1995 - 8 a.m. – Open Meeting

February 12, 1995 - 8 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

The board will meet on February 9, 1995, in open session to conduct general board business, receive committee and board reports, nominate officers, and discuss any other items which may come before the board. The board will meet on February 9, 10, 11, and 12 to review reports, interview licensees, and make decisions on disciplinary matters. The board will also review any regulations that may come before it. The board will entertain public comment during the first 15 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Credentials Committee

February 11, 1995 - 8:15 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ☒

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

VIRGINIA MILITARY INSTITUTE

Board of Visitors

February 11, 1995 - 8:30 a.m. – Open Meeting
Virginia Military Institute, Smith Hall, Lexington, Virginia. ☒

A meeting to receive committee reports and reports on visits to academic departments.

Contact: Col. Edwin L. Dooley, Jr., Secretary, Board of Visitors, Virginia Military Institute, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

DEPARTMENT OF MINES, MINERALS AND ENERGY

February 13, 1995 - 9:30 a.m. – Open Meeting
Department of Mines, Minerals and Energy,

Calendar of Events

Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting of the Permit Streamlining/Standardization Work Group to advise the agency on development of standardized, streamlined permit applications. This workgroup meeting is open to the public. There will be a public comment period at the conclusion of the meeting.

Contact: Les Vincent, Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8178 or toll-free 1-800-828-1120 (VA Relay Center)

Division of Mined Land Reclamation

† February 23, 1995 - 1 p.m. - Open Meeting

Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Conference Room 116, Big Stone Gap, Virginia. ☒ (Interpreter for the deaf provided upon request)

A public meeting to give interested persons an opportunity to be heard in regard to the FY 95 Abandoned Mine Land Consolidated Grant Application to be submitted to the Federal Office of Surface Mining.

Contact: Roger L. Williams, Abandoned Mine Land Manager, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8208 or toll-free 1-800-828-1120 (VA Relay Center)

† March 1, 1995 - 1 p.m. - Open Meeting

Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting of the Coal Combustion By-Products/Biosolids Work Group to advise the agency on development of guidelines for the placement of coal combustion by-products and biosolids on Division of Mined Land Reclamation permitted sites. This work group meeting is open to the public. There will be a public comment period at the conclusion of the meeting.

Contact: Les Vincent, Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8178 or toll-free 1-800-828-1120 (VA Relay Center)

NORFOLK STATE UNIVERSITY

Board of Visitors

† February 14, 1995 - 10 a.m. - Open Meeting
Harrison B. Wilson Hall, Administration Building, 2401 Corprew Avenue, Norfolk, Virginia.

Committee meetings. Academic Affairs will meet at 8 a.m. on February 14, Student Affairs at 3 p.m. on February 13, and Audit and Finance will meet at 8 a.m. on February 14.

Contact: Gerald D. Tyler, Norfolk State University, Wilson Hall-S340, 2401 Corprew Ave., Norfolk, VA 23504, telephone (804) 683-8373.

BOARD OF NURSING

Education Advisory Committee

February 17, 1995 - 9 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee will meet to consider matters related to educational programs approved by the Board of Nursing and make recommendations to the board as needed. Public comment will be accepted at 1 p.m.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

Nurse Aide Registry

† February 6, 1995 - 9 a.m. - Open Meeting

† February 9, 1995 - 9 a.m. - Open Meeting

† February 21, 1995 - 9 a.m. - Open Meeting

Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A special conference committee of the Board of Nursing will meet to hold informal conferences for certified nurses aides. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., M.S.N., Assistant Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7310 or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

February 15, 1995 - 9 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street,

5th Floor, Richmond, Virginia.

A regularly scheduled board meeting. Agenda items include adoption of regulatory review analysis on Public Participation Guidelines, and adoption of the Notice of Intended Regulatory Action on fee reduction. Public comment will be received at the beginning of the meeting for 15 minutes.

Contact: Lisa Russell Hahn, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

BOARD FOR OPTICIANS

February 10, 1995 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☒

A meeting to review new enforcement procedures and contact lens sales by pharmacies and mail-order houses, discuss apprenticeship training program and other matters requiring board action. A public comment period will be scheduled during the meeting. The meeting is open to the public. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD ☎

BOARD OF OPTOMETRY

February 8, 1995 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A general board meeting.

Contact: Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

February 8, 1995 - 3 p.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Informal conference committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

BOARD OF PHARMACY

† February 22, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 2, Richmond, Virginia.

A regular meeting of the board, a formal hearing and adoption of draft report for regulatory review of VR 530-01-2 (Practitioners of the Healing Arts to Sell Controlled Substances) and VR 530-01-3 (Public Participation Guidelines). A panel of the Board of Pharmacy will conduct formal hearings in the afternoon. Public comments will be received from 9:15 a.m. to 9:30 a.m.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

BOARD OF PROFESSIONAL COUNSELORS

February 17, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 1, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting to consider committee reports; consider recommendations on fees and standards of practice for Certified Rehabilitation Providers; consider comments on Regulations Governing the Certification of Substance Abuse Counselors; and respond to any correspondence and any other matters under the jurisdiction of the board. This is a public meeting and there will be a public comment period from 9:15 a.m. to 9:45 a.m.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

March 6, 1995 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☒

A general business meeting.

Contact: Debra Vought, Agency Management Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804)

Calendar of Events

367-9142.

REAL ESTATE APPRAISER BOARD

March 7, 1995 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☒

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

REAL ESTATE BOARD

† **February 22, 1995 - 9 a.m. – Open Meeting**
† **February 23, 1995 - 9 a.m. – Open Meeting**
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the Real Estate Board to make case decisions.

Contact: Stacie Camden, Legal Assistant, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2393.

STATE REHABILITATION ADVISORY COUNCIL

February 13, 1995 - 10 a.m. – Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A regular business meeting of the council.

Contact: Kathy Hayfield, State Rehabilitation Advisory Council Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7134, toll-free 1-800-552-5019/TDD ☎ and Voice or (804) 662-9040/TDD ☎

BOARD OF REHABILITATIVE SERVICES

February 9, 1995 - 10 a.m. – Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A special legislative business meeting of the board.

Contact: Dr. Ronald C. Gordon, Commissioner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD ☎ and Voice or (804) 662-9040/TDD ☎

DEPARTMENT OF REHABILITATIVE SERVICES

† **March 8, 1995 - 4 p.m. – Public Hearing**
Rockbridge Administration Building, 150 South Main Street, Lexington, Virginia. ☒

† **March 9, 1995 - 3:30 p.m. – Public Hearing**
Department of Rehabilitative Services Regional Office, 5365 Robin Hood Road, Suite G, Norfolk, Virginia. ☒

† **March 9, 1995 - 4 p.m. – Public Hearing**
Department of Rehabilitative Services Field Office, 600 East Water Street, Suite E, Charlottesville, Virginia. ☒

† **March 13, 1995 - 3:30 p.m. – Public Hearing**
301 Goodwin Neck Road, Human Services Building, Committee Room, Yorktown, Virginia. ☒

† **March 13, 1995 - 7:30 p.m. – Public Hearing**
Governmental Center, 12000 Governmental Center Parkway, Fairfax, Virginia. ☒

† **March 14, 1995 - 4 p.m. – Public Hearing**
468 East Main Street, Abingdon, Virginia. ☒

† **March 16, 1995 - 4 p.m. – Public Hearing**
Woodrow Wilson Rehabilitation Center, Mary Switzer Building, The Anderson Room, Fishersville, Virginia. ☒

† **March 16, 1995 - 4 p.m. – Public Hearing**
3433 Brambleton Avenue, S.W., Roanoke, Virginia. ☒

† **March 21, 1995 - 4 p.m. – Public Hearing**
Department of Rehabilitative Services Central Office, 8004 Franklin Farms Drive, Richmond, Virginia. ☒

A public hearing opportunity for people with disabilities, and other interested individuals, groups, and organizations to help develop the 1995 State Plans for Vocational Rehabilitation and Supported Employment. Written comments will be accepted through April 15, 1995, at the Department of Rehabilitative Services, or comments may be telephoned to the department. Sign language interpreters will be provided.

Contact: Dale Riley, Secretary, Department of Rehabilitative Services, 8004 Franklin Farms Dr., K300, Richmond, VA 23288, telephone (804) 662-7611 or toll-free 1-800-552-5019/TDD ☎

VIRGINIA RESOURCES AUTHORITY

February 14, 1995 - 9:30 a.m. – Open Meeting
Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

The board will meet to (i) approve minutes of its prior meeting; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

SEWAGE HANDLING AND DISPOSAL ADVISORY COMMITTEE

February 9, 1995 - 10 a.m. – Open Meeting
Department of Health, Main Street Station, 1500 East Main Street, Suite 115, Richmond, Virginia.

A regular meeting of the committee rescheduled from January 5, 1995.

Contact: Berly Nguyen, Secretary, Sewage Handling and Disposal Advisory Committee, 1500 E. Main St., Suite 115, P.O. Box 2448, Richmond, VA 23219, telephone (804) 786-1750.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

March 8, 1995 - 10 a.m. – Open Meeting
City Hall, Municipal Building, Patton Street, City Council Chambers, Danville, Virginia. ☒

A meeting to hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to §§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of Virginia, and VR 355-34-02.

Contact: Constance G. Talbert, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 117, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

STATE BOARD OF SOCIAL SERVICES

† **February 15, 1995 - 9 a.m. – Open Meeting**
† **February 16, 1995 - 9 a.m. – Open Meeting** (if necessary)
Koger Executive Center, 1604 Santa Rosa Road, Wythe

Building, Richmond, Virginia. ☒

† **March 15, 1995 - 9 a.m. – Open Meeting**
† **March 16, 1995 - 9 a.m. – Open Meeting** (if necessary)
Wayside Inn, 7783 Main Street (crossroads of Route 11 and I-81, Exit 302), Middletown, Virginia. ☒

A work session and formal business meeting of the board.

Contact: Phyllis Sisk, Special Assistant to the Commissioner, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, toll-free 1-800-552-3431 or toll-free 1-800-552-7096/TDD ☎

TREASURY BOARD

February 15, 1995 - 9 a.m. – Open Meeting
March 15, 1995 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. ☒

A regular meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

VIRGINIA RACING COMMISSION

February 15, 1995 - 9:30 a.m. – Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia. ☒

A regular commission meeting including a review of agency regulations and a period for public participation.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Vocational Rehabilitation Council

February 25, 1995 - 10 a.m. – Open Meeting
State Library for the Visually and Physically Handicapped, 395 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The council meets quarterly to advise the department on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth. Request deadline for interpreter services is February 11, 1995, at 3:30 p.m.

Contact: James G. Taylor, Vocational Rehabilitation

Calendar of Events

Specialist, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-662-2155 or (804) 371-3140/TDD ☎

VIRGINIA VOLUNTARY FORMULARY BOARD

† **March 16, 1995 - 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 May 1, 1994, and to the most recent supplement to that publication. 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 March 16, 1995, will be made a part of the hearing record.

Contact: James K. Thomson, Bureau of Pharmacy Services, Department of Health, Madison Bldg., 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

STATE WATER CONTROL BOARD

† **February 13, 1995 - 7 p.m.** – Public Hearing
Culpeper Board of Supervisors Room, 135 West Cameron Street, Culpeper, Virginia. ☎ (Interpreter for the deaf provided upon request)

The State Water Control Board will hold a public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0029238 for South Wales Utility, Inc., P.O. Box 1160, Warrenton, Virginia. The purpose of this hearing is to receive comments on the proposed reissuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Doneva A. Dalton, Hearings Reporter, Department of Environmental Quality, Policy and Research, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4379 or (804) 762-4021/TDD ☎

† **February 23, 1995 - 7 p.m.** – Public Hearing
Hopewell Community Center, 100 West City Point Road, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The State Water Control Board will hold a public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0005291 for Allied Signal, Inc., P.O. Box

761, Hopewell, Virginia. The purpose of this hearing is to receive comments on the proposed reissuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Doneva A. Dalton, Hearings Reporter, Department of Environmental Quality, Policy and Research, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4379 or (804) 762-4021/TDD ☎

THE COLLEGE OF WILLIAM AND MARY

February 26, 1995 – 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 College of William and Mary intends to amend regulations entitled: **VR 187-01-02. Motor Vehicle Parking and Traffic Rules and Regulations.** The purpose of the proposed amendment is to make minor changes in fees and lot designations.

Statutory Authority: § 23-9.2:3 of the Code of Virginia.

Written comments may be submitted until February 26, 1995, to Nancy S. Nash, Office of Administration and Finance, The College of William and Mary, P.O. Box 8795, Williamsburg, Virginia 23187-8795.

Contact: Mark Gettys, Associate Director, Auxiliary Services, The College of William and Mary, P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-2435.

BOARD OF YOUTH AND FAMILY SERVICES

† **February 7, 1995 - 10 a.m.** – Open Meeting
700 Centre, 7th and Franklin Streets, 4th Floor, Richmond, Virginia. ☎

The committee will meet for orientation with presentations from staff of the Department of Youth and Family Services.

Contact: Donald R. Carignan, Policy Coordinator, Department of Youth and Family Services, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0692.

† **February 8, 1995 - 10 a.m.** – Open Meeting
700 Centre, 7th and Franklin Streets, 4th Floor, Richmond, Virginia. ☎

A general board meeting to review programs recommended for certification or probation, and to consider adoption of draft policies and other matters that may come before the board.

Contact: Donald R. Carignan, Policy Coordinator, Department of Youth and Family Services, P.O. Box 1110,

Richmond, VA 23208-1110, telephone (804) 371-0692.

CHRONOLOGICAL LIST

OPEN MEETINGS

February 6

Alcoholic Beverage Control Board, Virginia
Barbers, Board for
Funeral Directors and Embalmers, Board of
- Legislative Committee
Health Professions, Board of
† Nursing, Board of
- Nurse Aide Registry

February 7

Funeral Directors and Embalmers, Board of
Health Professions, Board of
Hopewell Industrial Safety Council
† Medical Assistance Services, Board of
† Youth and Family Services, Board of

February 8

Historic Preservation Foundation, Virginia
Optometry, Board of
† Youth and Family Services, Board of

February 9

Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
† Environmental Quality, Department of
- Technical Advisory Committee on Vegetative Waste
Management and Yard Waste Composting
Regulations
Medicine, Board of
† Nursing, Board of
- Nurse Aide Registry
Rehabilitative Services, Board of
Sewage Handling and Disposal Advisory Committee

February 10

† Environmental Quality, Department of
- Technical Advisory Committee on Financial
Assurance Regulations for Solid Waste Management
Facilities
† Information Management, Council
† Long-Term Care Council
- Advisory Committee on Aging, Disability and
Long-Term Care Services
Medicine, Board of
Opticians, Board for

February 11

Medicine, Board of
- Credentials Committee
Military Institute, Virginia

February 12

† Barbers, Board for
Medicine, Board of

February 13

† Barbers, Board for
Mines, Minerals and Energy, Department of
Rehabilitation Advisory Council, State

February 14

Corrections, Board of
- Correctional Services Committee
Historic Resources, Department of
- State Review Board
† Norfolk State University
- Board of Visitors
Resources Authority, Virginia

February 15

Agriculture and Consumer Services, Department of
- Virginia Corn Board
† Conservation and Recreation, Department of
Corrections, Board of
- Administration Committee
Historic Resources, Department of
- Historic Resources Board
Local Debt, State Council on
Nursing Home Administrators, Board of
† Social Services, State Board of
Treasury Board
Virginia Racing Commission

February 16

Agriculture and Consumer Services, Department of
- Virginia Corn Board
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
- Northern Area Review Committee
Fire Services Board, Virginia
- Fire/EMS Education and Training Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee
† Geology, Board for
† Social Services, State Board for

February 17

† Building Code Technical Review Board, State
Fire Services Board, Virginia
† Geology, Board for
† Interdepartmental Regulation for Children's Facilities
- Coordinating Committee
Nursing, Board of
- Education Advisory Committee
Professional Counselors, Board of

February 21

† Aviation Board, Virginia
† Housing Development Authority, Virginia
† Nursing, Board of
- Nurse Aide Registry

Calendar of Events

February 22

- Alcoholic Beverage Control Board, Virginia
- † Aviation Board, Virginia
- Chesapeake Bay Local Assistance Board
 - Southern Area Review Committee
- † Conservation and Recreation, Department of
 - Goose Creek Scenic River Advisory Board
- † Pharmacy, Board of
- † Real Estate Board

February 23

- † Architects, Professional Engineers, Land Surveyors and Landscape Architects
- Audiology and Speech-Language Pathology, Board of
- † Mines, Minerals and Energy, Department of
 - Division of Mined Land Reclamation
- † Real Estate Board

February 24

- † Architects, Professional Engineers, Land Surveyors and Landscape Architects
 - Architects, Board for

February 25

- Visually Handicapped, Department for the
 - Vocational Rehabilitation Advisory Council

February 28

- Health Services Cost Review Council, Virginia
- † Lottery Department, State
- † Marine Resources Commission

March 1

- † Mines, Minerals and Energy, Department of
 - Division of Mined Land Reclamation

March 2

- † Compensation Board

March 3

- HIV Prevention Community Planning Committee, Virginia

March 6

- Professional and Occupational Regulation, Board for

March 7

- Hopewell Industrial Safety Council
- Real Estate Appraiser Board

March 8

- † Agriculture and Consumer Services, Department of
 - Virginia Peanut Board
- Sewage Handling and Disposal Appeals Review Board

March 12

- † Barbers, Board for
- † Library Board
 - Executive Committee

March 13

- † Barbers, Board for
- † Hearing Aid Specialists, Board for
- † Library Board
 - Archives and Records Management Committee
 - Automation and Networking Committee
 - By-Laws Committee
 - General Library Committee
 - Legislative and Finance Committee
 - Nominating Committee
 - Public Library Development Committee
 - Publications and Cultural Affairs Committee

March 15

- † Contractors, Board for
- Local Debt, State Council on
- † Social Services, State Board of
- Treasury Board

March 16

- † Game and Inland Fisheries, Board of
- † Social Services, State Board of

March 17

- † Game and Inland Fisheries, Board of

March 20

- Local Government, Commission on

March 21

- † Emergency Planning Committee, Local - Gate City
- Local Government, Commission on

March 22

- † Interagency Coordinating Council, Virginia
- † Manufactured Housing Board, Virginia

March 27

- Cosmetology, Board for

March 30

- † Compensation Board

PUBLIC HEARINGS

February 10

- Health, Board of

February 13

- † Water Control Board, State

February 15

- Health, Board of

February 16

- Fire Services Board, Virginia

February 23

Calendar of Events

† Water Control Board, State

March 8

† Rehabilitative Services, Department of

March 9

† Rehabilitative Services, Department of

March 13

† Rehabilitative Services, Department of

March 14

† Rehabilitative Services, Department of

March 16

† Rehabilitative Services, Department of

† Voluntary Formulary Board, Virginia

March 20

Local Government, Commission on

March 21

† Rehabilitative Services, Department of

Calendar of Events
