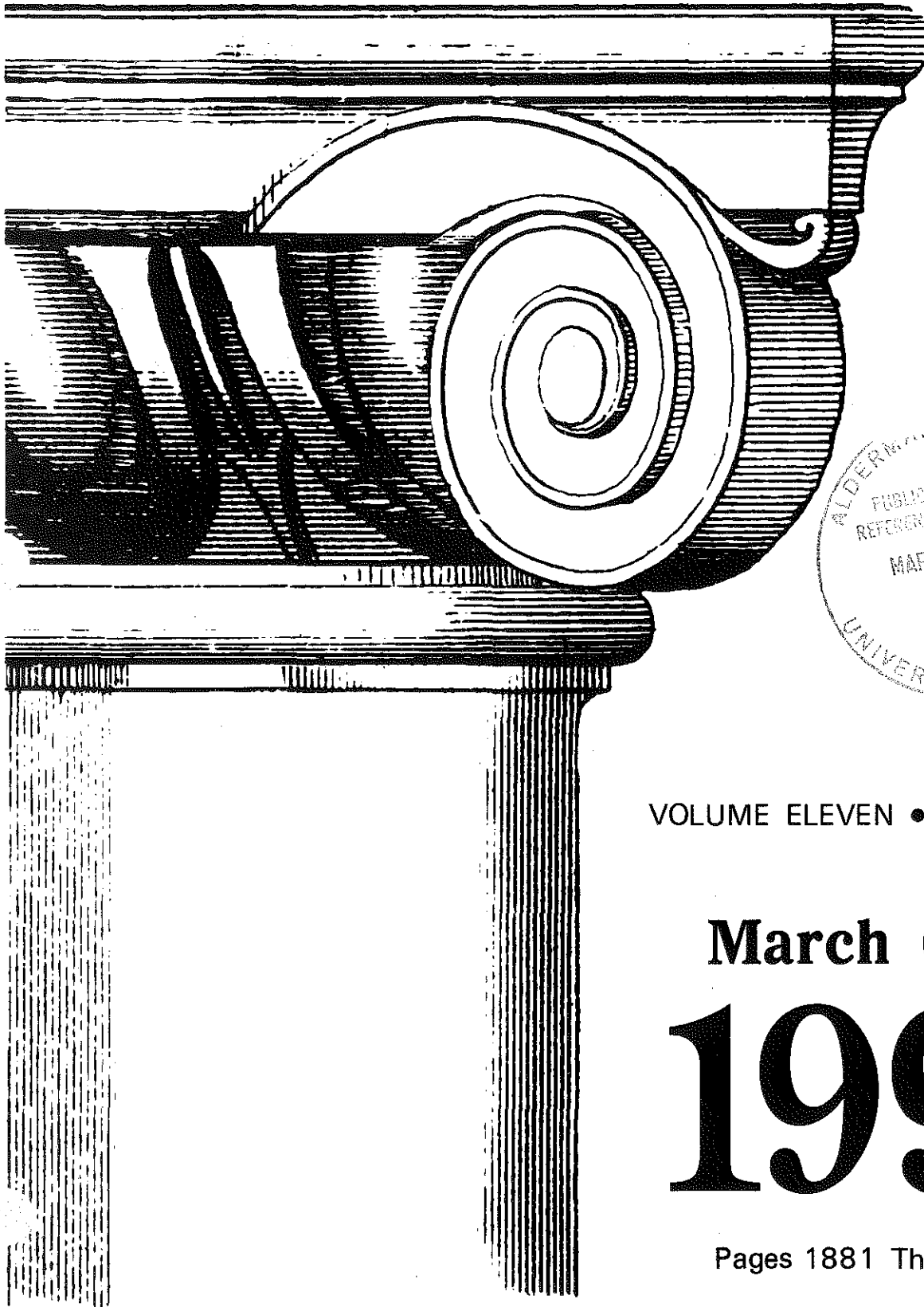


COD 5/R 26/11-12 c.2

# THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME ELEVEN • ISSUE TWELVE

March 6, 1995

# 1995

Pages 1881 Through 2022

## 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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# NOTICES OF INTENDED REGULATORY ACTION

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<b>Symbol Key †</b>
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† Indicates entries since last publication of the Virginia Register
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## DEPARTMENT OF HEALTH (STATE BOARD OF)

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-18-014. Waterworks Operation Fee.** The purpose of the proposed action is to (i) reduce the present fee from \$2.05 per connection per year for a community waterworks to \$1.60 per connection per year in FY '95-96 and \$1.98 in FY '96-97; and (ii) reduce the present flat fee of \$90 per year for a nontransient waterworks to \$70 (FY '95-96) and \$87 (FY '96-97). The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 32.1-170 and 32.1-171.1 of the Code of Virginia.

Written comments may be submitted until April 6, 1995.

**Contact:** Thomas B. Gray, P.E., Special Projects Manager, Department of Health, Office of Water Programs, 1500 E. Main St., Suite 109, Richmond, VA 23219, telephone (804) 786-5566 or FAX (804) 786-5567.

VA.R. Doc. No. R95-299; Filed February 17, 1995, 4:07 p.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **VR 460-01-66.2. Vaccines for Children Administration Fee.** The purpose of the proposed action is to promulgate permanent regulations to supersede the current identical emergency regulation for the vaccines administration fee. The regulation that the agency intends to propose for public comment period is a preprinted page issued by the Health Care Financing Administration for inclusion in all State Plans for Medical Assistance. This regulation will incorporate into the State Plan the required administration fee for the Vaccines for Children Program in conformance with federal requirements. The agency does not intend to hold public hearings on this issue.

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

Written comments may be submitted until March 22, 1995, to Sally Rice, Division of Client Services, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. C95-958; Filed February 1, 1995, 11:19 a.m.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Board of Mineral Mining Examiners

### 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.

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

Written comments may be submitted until March 8, 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)

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

### 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 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

# Notices of Intended Regulatory Action

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coal and mineral miners. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Written comments may be submitted until March 8, 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)

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

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to consider amending regulations entitled: **VR 385-01-8. Subdivision Street Requirements.** The purpose of the proposed action is to determine the necessity for revision of the current regulation in the (i) promotion of public welfare and safety; (ii) accommodation of changing conditions throughout the Commonwealth; (iii) fostering of Virginia's economic development; and (iv) response to SJR #61 as enacted by the 1994 Session of the General Assembly. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 33.1-12, 33.1-69, and 33.1-229 of the Code of Virginia.

Public comments may be submitted until April 5, 1995.

**Contact:** James S. Givens, State Secondary Roads Engineer, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2746 or FAX (804) 786-2603.

V.A.R. Doc. No. R95-298; Filed February 15, 1995, 10:15 a.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 MANUFACTURED HOUSING BOARD

### Title of Regulation: VR 449-01-02. Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

Statutory Authority: § 36-85.18 of the Code of Virginia.

Public Hearing Date: April 19, 1995 - 10 a.m.

Written comments may be submitted until May 10, 1995.

(See Calendar of Events section for additional information)

Basis: Section 36-85.18 of the Code of Virginia requires the Virginia Manufactured Housing Board to promulgate regulations as necessary to implement the manufactured housing licensing, warranty and transaction recovery fund provisions.

Purpose: The purpose of these regulations is to provide for increased consumer protection for both buyers and users of manufactured homes through mandatory licensing and regulation of manufactured housing manufacturers, dealers, brokers, and their salespeople, statutorily mandated warranties, and a Transaction Recovery Fund. The amendments incorporate the legislative changes from House Bill 1172 and clarify some of the provisions to avoid unnecessary restrictions.

Substance: In accordance with statutory mandates of House Bill 1172, the proposed amendments require licenses for all manufactured housing dealers and brokers located outside of the Commonwealth but selling manufactured homes to buyers in Virginia, require licenses for salespeople working for the manufacturers and brokers, and extend the right to file a claim against the recovery fund to persons other than the buyer of the home. The amendments also revise the license fee schedule as permitted by House Bill 1172, resulting in lower fees for the smaller dealers and brokers, lower renewal fees for manufacturers, and a generally more equitable fee schedule for licenses. Other amendments clarify the sections regarding prohibited conduct, advertising practices, multiple production facilities, and transferring licenses to avoid any misunderstanding and unnecessary restrictions on regulants. The following is a breakdown of amendments to the regulation:

Section 1.1 requires nonresident dealers and brokers doing business in Virginia to be licensed, and adds salespeople working for manufacturers or for brokers to licensing program.

Section 2.1 D clarifies conditions for multiple production lines at one site to operate under single license to avoid multiple licenses at the same location.

Section 2.2 B and C adds list of salespeople to information required from manufacturer for licensing.

Section 2.4 A clarifies nonresident dealers.

Section 2.8 A clarifies nonresident brokers.

Section 2.9 B and C adds list of salespeople to information required from broker for licensing.

Section 2.12 adds license requirement for salesperson working for broker or manufacturer, and clarifies and allows salespeople to transfer/move from one dealer lot to another under same ownership without requiring a new license. The section clarifies intent and removes unnecessary restriction.

Section 2.14 adds termination requirements for salesperson working for broker or manufacturer.

Section 2.16 prohibits certain conduct of a salesperson working for broker or manufacturer, adds to prohibited conduct violations of other state or federal regulations (i.e., Department of Transportation, Department of Motor Vehicles, etc.), and gives the board the authority to deny or revoke license to convicted felons. This is consistent with regulations for licensed contractors.

Section 2.19 A amends license fee schedule, reduces renewal fee, lowers fees for small businesses, and constructs a more equitable fee schedule based on number of homes sold by dealers or brokers.

Section 4.1 clarifies prohibited advertising practices.

Section 4.3 A adds that written warning is to be sent by certified mail for records.

Section 5.1 B clarifies out-of-state dealer, and clarifies that if any defects occur during transportation and setup, they will be repaired.

Section 6.2 A clarifies that any retained damages will be from buyer's deposit.

Section 7.2 allows Recovery Fund claims to be filed by dealer or manufacturer as well as buyer; it no longer restricts claims to buyer only, and changes buyer to person.



# Proposed Regulations

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Issues: Requiring licenses for the out-of-state businesses will provide increased consumer protection for buyers and users of manufactured homes located in Virginia. Licensing the salespeople for the manufacturers and brokers will also increase consumer protection and provide more equitable requirements in the program. Adjusting the license fees will lower the fees for many smaller businesses and spread the fee payments throughout the license year rather than the current set fee for all businesses. Extending the coverage of the recovery fund to persons other than the buyers will provide some protection to dealers and manufacturers for actions by regulants in violation of the regulations. There are no disadvantages associated with this regulation from the agency's or the public's standpoint.

Estimated Impact: The legislative amendments will require the licensing of an estimated 25 to 30 nonresident dealers and brokers selling homes to Virginia residents and add an estimated 150 salespeople working for the manufacturers and brokers to the licensing requirements. License fees of \$50 per salesperson would generate an additional \$7,500 revenue and the nonresident dealers and brokers license fees would generate an estimated \$13,000 to \$15,000 in revenue to be used to administer the program. No general fund allocations are involved in this self-funded program. All buyers and users of manufactured homes benefit from this program. There are approximately 5,000 to 6,000 new manufactured homes sold each year in Virginia in addition to resales of 10,000 to 12,000 homes annually. Educational and consumer protection programs on manufactured homes can be paid for by interest earned on the Transaction Recovery Fund. These regulations do not impact disproportionately upon any locality.

## Summary:

*The proposed amendments to the regulations incorporate the legislative changes adopted by the 1994 General Assembly in House Bill 1172. The legislative amendments require retail manufactured home dealers and brokers located outside of the Commonwealth to be licensed by the Manufactured Housing Board if those dealers or brokers are selling homes to buyers in Virginia. House Bill 1172 amendments also add salespersons working for licensed brokers and manufacturers to the list of regulants that must be licensed and extend the coverage and protection of the recovery fund to persons other than the buyer of the home. The license fee schedule is being amended to reduce the license fees for smaller dealers and brokers as well as the renewal license fees for manufacturers. Several of the amendments, not required by the legislative action, are proposed for clarity of intent and to avoid unnecessary restrictions on regulants.*

VR 449-01-02. Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

## PART I. GENERAL.

### § 1.1. Definitions.

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

"Board" means the Virginia Manufactured Housing Board.

"Buyer" means the person who purchases at retail from a dealer or manufacturer a manufactured home for personal use as a residence or other related use.

"Claimant" means any person who has filed a verified claim under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia.

"Code" means the appropriate standards of the Virginia Uniform Statewide Building Code and the Industrialized Building and Manufactured Home Safety Regulations adopted by the Board of Housing and Community Development and administered by the Department of Housing and Community Development pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 for manufactured homes.

"Dealer/manufacture sales agreement" means a written contract or agreement between a manufactured housing manufacturer and a manufactured housing dealer whereby the dealer is granted the right to engage in the business of offering, selling, and servicing new manufactured homes of a particular line or make of the stated manufacturer of such line or make. The term shall include any severable part or parts of such sales agreement which separately provides for selling or servicing different lines or makes of the manufacturer.

"Defect" means any deficiency in or damage to materials or workmanship occurring in a manufactured home which has been reasonably maintained and cared for in normal use. The term also means any failure of any structural element, utility system or the inclusion of a component part of the manufactured home which fails to comply with the Code.

"Department" means the Department of Housing and Community Development.

"Director" means the Director of the Department of Housing and Community Development, or his designee.

"Fund" or "recovery fund" means the Virginia Manufactured Housing Transaction Recovery Fund.

"HUD" means the United States Department of Housing and Urban Development.

"Licensed" means the regulant has met all applicable

# Proposed Regulations

requirements of these regulations, paid all required fees, and been authorized by the board to manufacture or offer for sale or sell manufactured homes in accordance with these regulations.

*"Manufactured home"* means a structure constructed to federal standards, transportable in one or more sections, which, in the traveling mode is eight feet or more in width and is 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

*"Manufactured home broker"* or *"broker"* means any person, partnership, association or corporation, *resident or nonresident*, who, for compensation or valuable consideration, sells or offers for sale, buys or offers to buy, negotiates the purchase or sale or exchange, or leases or offers to lease used manufactured homes that are owned by a party other than the broker.

*"Manufactured home dealer"* or *"dealer"* means any person, *resident or nonresident*, engaged in the business of buying, selling or dealing in manufactured homes or offering or displaying manufactured homes for sale in Virginia. Any person who buys, sells, or deals in three or more manufactured homes in any 12-month period shall be presumed to be a manufactured home dealer. The terms *"selling"* and *"sale"* include lease-purchase transactions. The term *"manufactured home dealer"* does not include banks and finance companies that acquire manufactured homes as an incident to their regular business.

*"Manufactured home manufacturer"* or *"manufacturer"* means any persons, *resident or nonresident*, who manufacture or assemble manufactured homes for sale in Virginia.

*"Manufactured home salesperson"* or *"salesperson"* means any person who for compensation or valuable consideration is employed either directly or indirectly by, or affiliated as an independent contractor with, a manufactured home dealer, *broker or manufacturer* to sell or offer to sell; or to buy or offer to buy; or to negotiate the purchase, sale or exchange; or to lease or offer to lease new or used manufactured homes.

*"New manufactured home"* means any manufactured home which (i) has not been previously sold except in good faith for the purpose of resale, (ii) has not been previously occupied as a place of habitation, (iii) has not been previously used for commercial purposes such as offices or storage, and (iv) has not been titled by the Virginia Department of Motor Vehicles.

*"Person"* means any individual, natural person, firm, partnership, association, corporation, legal representative, or other recognized legal entity.

*"Regulant"* means any person, firm, corporation, association, partnership, joint venture, or any other legal entity required by Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia to be licensed by the board.

*"Regulations"* or *"these regulations"* means the Virginia Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

*"Relevant market area"* means the geographical area established in the dealer/manufacturer sales agreement and agreed to by both the dealer and the manufacturer in the agreement.

*"Responsible party"* means a manufacturer, dealer, or supplier of manufactured homes.

*"Set-up"* means the operations performed at the occupancy site which render a manufactured home fit for habitation. Such operations include, but are not limited to, transportation, positioning, blocking, leveling, supporting, anchoring, connecting utility systems, making minor adjustments, or assembling multiple or expandable units. Such operations do not include lawful transportation services performed by public utilities operating under certificates or permits issued by the State Corporation Commission.

*"Standards"* means the Federal Manufactured Home Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development.

*"Statement of Compliance"* means the statement that the regulant licensed by the board will comply with the Manufactured Housing Licensing and Transaction Recovery Fund Law, the regulations and the orders of the board.

*"Supplier"* means the original producers of completed components, including refrigerators, stoves, water heaters, dishwashers, cabinets, air conditioners, heating units, and similar components, and materials such as floor coverings, panelling, siding, trusses, and similar materials, which are furnished to a manufacturer or a dealer for installation in the manufactured home prior to sale to a buyer.

*"Used manufactured home"* means any manufactured home other than a new home as defined in this section.

*"Warranty"* means any written assurance of the manufacturer, dealer or supplier or any promise made by a regulant in connection with the sale of a manufactured home that becomes part of the basis of the sale. The term *"warranty"* pertains to the obligations of the regulant in relation to materials, workmanship, and fitness of a manufactured home for ordinary and reasonable use of the home for the term of the promise or assurance.

PART II.  
LICENSES.

Article 1.

# Proposed Regulations

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## Manufacturers.

### § 2.1. License required; annual renewal.

A. Each manufacturer located in or outside of the Commonwealth delivering in or shipping into the Commonwealth manufactured homes for sale, shall apply to the board for a license. The license shall be displayed at the place of business. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed manufacturer shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for the new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of these regulations were in compliance with the requirements of these regulations. Upon application and payment of the renewal fee and any penalty by a manufacturer, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a manufacturer in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under these regulations.

D. For licensing purposes, a manufacturer operating more than one manufacturing facility shall have each location treated as a separate entity and shall adhere to all requirements for manufacturer licensing at each location. *Multiple production lines at one site shall be considered as a single facility for licensing purposes under the following conditions:*

- 1. All production lines at that site are identified by the parent company with the same name, address and plant number.*
- 2. All production lines at that site are under the same general and production management.*
- 3. All production lines at that site are identified by the same Federal Identification Number (FIN) for tax purposes.*

### § 2.2. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by § 7.1 A 1.
2. Licensing fee required by § 2.19 A 1.
3. Copy of the manufacturer's homeowner and installation manual(s).
4. Statement of Compliance.
5. *List of salespeople licensed in Virginia with the following biographical information for each:*

*Date of birth*

*Sex*

*Weight*

*Height*

*Eye/hair color*

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by § 2.19 A 2.
2. If revised, a copy of the revised homeowner and installation manual(s).
3. Statement of Compliance.
4. *Updated list of salespeople employed.*

### § 2.3. Statement of Compliance.

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit his firm to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.

Article 2.  
Dealers.

### § 2.4. License required; annual renewal.

A. Any person located in or outside of the Commonwealth buying or selling or offering or displaying manufactured homes for sale in Virginia and meeting the

definition of a dealer in § 1.1 shall apply to the board for a license. The license shall be displayed to the public in the office of the business location. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed dealer shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of these regulations were in compliance with the requirements of these regulations. Upon application and payment of the renewal fee and any penalty by a dealer, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a dealer in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under these regulations.

D. For licensing purposes, a dealer operating more than one retail location shall have each location treated as a separate entity and shall adhere to all requirements for dealer licensing at each location.

E. Each dealer licensed under these regulations shall also obtain a certificate of dealer registration from the Virginia Department of Motor Vehicles. The certificate of registration shall be renewed annually and shall be maintained in effect with the Department of Motor Vehicles as long as the dealer is licensed under these regulations.

## § 2.5. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by § 7.1 A 2.

2. Licensing fee required by § 2.19 A 3.

3. Statement of Compliance.

4. Verification of a business office with all utilities, including a business telephone, and where the required business records are maintained.

5. Verification of a permanent business sign, in view of public traffic, bearing the name of the firm.

6. List of salespeople employed with the following biographical information for each:

Date of birth

Sex

Weight

Height

Eye/hair color

7. Name of the owner, principal, manager, agent or other person designated as the holder of the dealer's license for the specific location and the names of other partners or principals in the dealership.

Photographs of the front of the business office and required sign may be considered as verification required by this subsection.

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by § 2.19 A 4.

2. Statement of Compliance.

3. Notification of any significant changes to the office or the business sign.

4. Updated list of salespeople employed.

5. Any changes of officers or directors of the company or corporation.

6. A copy of the dealer's current certificate of registration from the Department of Motor Vehicles.

D. Any change in the form of ownership of the dealer or any changes (deletions or additions) in the partners or principals of the dealer shall be submitted to the board with an application and fee for a new license. If the new owner(s) assume the liabilities of the previous owner(s), then a new recovery fund assessment is not required. New recovery fund assessments shall be required when the new owner(s) do not assume the liabilities of the previous owner(s).

# Proposed Regulations

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The board shall be notified immediately by the dealer of any change in the operating name of the dealer. The director shall endorse the change on the license without requiring an additional fee.

The board shall be notified immediately by the dealer of any change in the location of the dealer. The dealer shall pay a fee of \$50 for the change of location on the license, but shall not be required to pay an additional assessment to the recovery fund for the change of location only.

## § 2.6. Statement of Compliance.

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit the dealer to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.

## § 2.7. Dealer responsibility for inspections; other items.

A. The dealer shall inspect every new manufactured home unit upon delivery from a manufacturer. If a dealer becomes aware of a noncompliance or an imminent safety hazard, as defined in Section 1200.2 of the Industrialized Building and Manufactured Home Safety Regulations, in a manufactured home, the dealer shall contact the manufacturer, provide full information concerning the problem, and request appropriate action by the manufacturer. No dealer shall sell a new manufactured home if he becomes aware that it contains a noncompliance or an imminent safety hazard.

B. The dealer shall inspect every new manufactured home unit prior to selling to determine that all items of furniture, appliances, fixtures and devices are not damaged and are in place and operable.

C. A dealer shall not alter or cause to be altered any manufactured home to which a HUD label has been affixed if such alteration or conversion causes the manufactured home to be in violation of the standards.

D. If the dealer provides for the installation of any manufactured home he sells, the dealer shall be responsible for making sure the installation of the home meets the manufacturer's installation requirements and the Code.

E. On each home sold by the dealer, the dealer shall collect the applicable title fees and title tax for the manufactured home and forward such fees and taxes to the Virginia Department of Motor Vehicles.

## Article 3. Brokers.

## § 2.8. License required; annual renewal.

A. Any person located in or outside of the

*Commonwealth* buying or selling, negotiating the purchase or sale or exchange of, or leasing used manufactured homes and meeting the definition of broker in § 1.1 shall apply to the board for a license. The license shall be displayed to the public in the office of the business location. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed broker shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of these regulations were in compliance with the requirements of these regulations. Upon application and payment of the renewal fee and any penalty by a broker, the board may review an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a broker in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under the regulations.

D. For licensing purposes, a broker operating more than one business location shall have each location treated as a separate entity and shall adhere to all requirements for broker licensing at each location.

E. Each broker licensed under these regulations shall also obtain a certificate of dealer registration from the Virginia Department of Motor Vehicles. The certificate of registration shall be renewed annually and shall be maintained in effect with the Department of Motor Vehicles as long as the broker is licensed under these regulations.

## § 2.9. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

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1. Deposit in the Transaction Recovery Fund required by § 7.1 A 3.
2. Licensing fee required by § 2.19 A 5.
3. Statement of Compliance.
4. Verification of a business office with all utilities, including a business telephone, and where the required business records are maintained.
5. Verification of a permanent business sign, in view of public traffic, bearing the name of the firm.
6. Name of the owner, principal, manager, agent or other person designated as the holder of the broker's license for the specific location and the names of the partners or principals in the broker's firm.
7. *List of salespeople employed with the following biographical information for each:*

*Date of birth*

*Sex*

*Weight*

*Height*

*Eye/hair color*

Photographs of the front of the business office and required sign may be considered as verification required by this subsection.

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by § 2.19 A 6.
2. Statement of Compliance.
3. Notification of any significant changes to the office or the business sign.
4. Any changes of officers or directors of the company or corporation.
5. A copy of the broker's current certificate of registration from the Department of Motor Vehicles.
6. *Updated list of salespeople employed.*

D. Any change in the form of ownership of the broker or any changes (deletions or additions) in the partners or principals of the broker shall be submitted to the board with an application and fee for a new license. If the new owner(s) assume the liabilities of the previous owner(s), then a new recovery fund assessment is not required. New recovery fund assessments shall be required when the new

owner(s) do not assume the liabilities of the previous owner(s).

The board shall be notified immediately by the broker of any change in the operating name of the broker. The director shall endorse the change on the license without requiring an additional fee.

The board shall be notified immediately by the broker of any change in location of the broker. The broker shall pay a fee of \$50 for the change of location on the license, but shall not be required to pay an additional assessment to the recovery fund for the change of location only.

## § 2.10. Statement of Compliance.

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit the broker to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.

## § 2.11. Broker responsibility for inspections; other items.

A. The broker shall inspect every used manufactured home unit prior to completion of sale. No broker shall sell a used manufactured home, if he becomes aware that it contains an imminent safety hazard as defined in Section 1200.2 of the Industrialized Building and Manufactured Home Safety Regulations.

Exception: A broker may sell a used manufactured home in which he is aware of an imminent safety hazard if the buyer is advised of the imminent safety hazard in writing by the broker and is further advised that building permits may be required from the local building official for repair of the imminent safety hazard.

B. A broker shall not alter or cause to be altered any manufactured home to which a HUD label has been affixed if such alteration or conversion causes the manufactured home to be in violation of the standards.

C. If the broker provides for the installation of any manufactured home he sells, the broker shall be responsible for making sure the installation of the home meets the manufacturer's installation requirements and the Code.

D. On each home sold by the broker, the broker shall collect the applicable title tax and title fees for the manufactured home and forward such fees and taxes to the Virginia Department of Motor Vehicles.

Article 4.  
Salespeople.

## § 2.12. License required; annual renewal.

A. Any person employed by a dealer, *broker* or *manufacturer* buying or selling or negotiating the purchase,

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sale or exchange of new or used manufactured homes and meeting the definition of a salesperson in § 1.1 shall apply to the board for a license. The salesperson's license shall be displayed in the ~~dealer's company's business~~ office in public view. The license shall be issued for a term of one year from the date of issuance. ~~A separate salesperson's license shall be required for each dealer location at which the salesperson works.~~ A salesperson shall be allowed to engage in business as a licensed salesperson after applying for a license, but prior to receiving the license back from the board.

B. Each licensed salesperson shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of these regulations were in compliance with the requirements of these regulations. Upon application and payment of the renewal fee and any penalty by a salesperson, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a salesperson in Virginia after expiration of the license and prior to application for renewal or agrees to the conditions imposed by the board, and is otherwise eligible for a license under these regulations.

*D. When employed by a dealer, broker or manufacturer having more than one licensed retail location or business office, a licensed salesperson may transfer or be temporarily assigned from one location to the other as long as he is working for the same company under the same ownership. Such transfer or assignment shall not require an additional license or Transaction Recovery Fund assessment. If a salesperson works for more than one company or at locations with different owners, he shall be licensed separately for each and pay a separate Transaction Recovery Fund assessment for each such license.*

## § 2.13. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on

the form shall be supplied by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by § 7.1 A 4.
2. Licensing fee required by § 2.19 A 7.
3. Statement of Compliance.

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by § 2.19 A 8.
2. Statement of Compliance.

## § 2.14. Termination of employment; notification to department.

Whenever the salesperson's employment with a dealer is terminated, the salesperson shall immediately send his license to the department. The license shall be marked "Employment terminated on Date" with the date given that the salesperson stopped working for the dealer, broker or manufacturer. The dealer, broker or manufacturer also shall notify the department of the salesperson's termination of employment no later than the tenth day of the month following the month of termination.

## Article 5. Special License.

## § 2.15. Special license; applications; fees.

A. The board may approve applications from regulants for special licenses, not to exceed 10 days in duration, for a temporary place of business operated or proposed by the regulant. The temporary location shall not be contiguous to other premises for which a license is issued, except that contiguous locations may be licensed for dealer and manufacturer product shows.

B. The application for special licenses shall be submitted on forms supplied by the department. All information required with the application shall be furnished by the applicant for the board's review. Applications shall be submitted to the board at least 30 days prior to the requested effective date of the special license.

C. The application shall be accompanied by the required fee in § 2.19 B.

## Article 6. Violations and Hearings.

## § 2.16. Prohibited conduct; grounds for denying, suspending

or revoking license.

A. The following acts by regulants are prohibited and may be considered by the board as grounds for action against the regulant:

1. Engaging in business as a manufactured home manufacturer, dealer or broker without first obtaining a license from the board.
2. Engaging in business as a manufactured home salesperson without first applying to the board for a license.
3. Making a material misstatement in an application for license.
4. Failing to pay a required assessment to the Transaction Recovery Fund.
5. Failing to comply with the warranty service obligations and claims procedures required by these regulations.
6. Failing to comply with the set-up and tie-down requirements of the Code.
7. Knowingly failing or refusing to account for or pay over money or other valuables belonging to others which have come into the regulant's possession due to the sale of a manufactured home.
8. Using unfair methods of competition or unfair or deceptive commercial acts or practices.
9. Failing to comply with the advertising provisions in Part IV of these regulations.
10. Defrauding any buyer to the buyer's damage, and any other person in the conduct of the regulant's business.
11. Employing an unlicensed salesperson.
12. Knowingly offering for sale a manufactured home produced by a manufacturer which is not licensed as a manufacturer under these regulations.
13. Knowingly selling a manufactured home to a dealer who is not licensed as a dealer under these regulations.
14. Failing to appear before the board upon due notice.
15. Failing to comply with orders issued by the board pursuant to these regulations.
16. Failing to renew a license and continuing to engage in business as a manufacturer, dealer, broker or salesperson after the expiration of any license.

17. A salesperson selling, exchanging or offering to sell or exchange a manufactured home for any dealer or broker other than the licensed dealer or broker employing the salesperson.

18. A salesperson offering, transferring or assigning any negotiated sale or exchange of a manufactured home to another dealer, broker, manufacturer or salesperson.

19. Failing to comply with the Statement of Compliance.

20. Failing to notify the board of a change of location or address of the business office.

21. Failing to comply with any provisions of these regulations.

22. *Failing to comply with the regulations of state or federal agencies regarding the financing, titling, taxation or transporting of manufactured homes.*

B. The board may deny, suspend, revoke or refuse to renew the license of a regulant because of, but not limited to, one or more of the following grounds:

1. Having had a license previously denied, revoked or suspended under these regulations.
2. Having a license denied, suspended or revoked by a similar licensing entity in another state.
3. Engaging in conduct in another state which would have been a violation of these regulations if the actions were committed in Virginia.
4. Failing to obtain a required certification of registration from the Department of Motor Vehicles, failing to renew the annual certificate of registration, or having the certificate of registration suspended or revoked by the Department of Motor Vehicles.
5. *Having been convicted or found guilty in any jurisdiction of a felony.*

§ 2.17. Penalties; notice to regulant.

A. The board shall have the power to deny, suspend, revoke or refuse to renew the license of a regulant found to be engaging in prohibited conduct or otherwise failing to comply with these regulations or orders of the board.

B. The board shall have the authority to levy assessments in addition to or instead of denying, suspending, revoking or refusing to renew a regulant's license. Such assessments shall include the following:

1. Transaction Recovery Fund assessments of up to \$2,500 for each violation by a manufacturer.



# Proposed Regulations

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2. Transaction Recovery Fund assessments of up to \$2,500 for each violation by a dealer or broker.

3. Transaction Recovery Fund assessments of up to \$2,500 for each violation by a salesperson.

C. The board shall notify the regulant, in writing, of any complaint directed against him. The notice shall include the time and place of a conference or hearing on the complaint. No penalties shall be imposed by the board until after the conference or hearing.

## § 2.18. Conference; hearing; service of notice.

A. The board, or department acting on the board's behalf, shall send notice of the conference or hearing to the regulant at least 15 calendar days prior to the date of the conference or hearing. The notice shall be sent by certified mail to the address of the regulant, as shown on the license or other record of information in possession of the board.

B. The conference or hearing shall be conducted by the board according to the applicable provision of the Administrative Process Act and shall be open to the public. The regulant or applicant shall have the right to be heard in person or by counsel, and to provide evidence and witnesses on his behalf.

C. After the conference or hearing has been completed, if the board determines that the regulant or applicant has engaged in prohibited conduct, or is in violation of these regulations or orders of the board, or otherwise determines that it has grounds to impose any penalties under § 2.17, the board shall immediately notify the regulant or applicant in writing, by certified mail, of the action imposed by the board. The department shall be responsible for carrying out the board's decision. The department shall also notify the Department of Motor Vehicles of the suspension or revocation of any dealer's or broker's license under these regulations.

D. The decision of the board shall be final if no appeal is made. An appeal from the decision of the board may be filed with a court in accordance with the Administrative Process Act.

## Article 7. License Fees.

### § 2.19. Fee schedules.

A. The following fees are set by the board for annual licenses and renewals issued in accordance with these regulations.

1. The manufacturer's original license fee shall be \$600.

2. The manufacturer's renewal license fee shall be ~~\$600~~ \$500 .

3. The dealer's original license fee shall be ~~\$500~~. ~~\$150 to be submitted with the application for licensure plus \$10 per home sold by the dealer to be submitted at the completion of the sale.~~

4. The dealer's renewal license fee shall be ~~\$500~~. ~~\$100 to be submitted with the application for renewal plus \$10 per home sold by the dealer to be submitted at the completion of the sale.~~

5. The broker's original license fee shall be ~~\$500~~. ~~\$150 to be submitted with the application for licensure plus \$10 per home sold by the broker to be submitted at the completion of the sale.~~

6. The broker's renewal license fee shall be ~~\$500~~. ~~\$100 to be submitted with the application for renewal plus \$10 per home sold by the broker to be submitted at the completion of the sale.~~

7. The salesperson's original license fee shall be \$50.

8. The salesperson's renewal license fee shall be \$50.

~~The license fees listed in this subsection shall be paid by the applicant either in full at the time of application for licensure or one-half of the fee at the time of application and the remaining half of the fee six months after the date of issue of the license.~~

B. The following fees apply to special licenses issued by the board in accordance with Article 5 of this part of these regulations:

1. Manufacturer's special license fee shall be \$25.

2. Dealer's special license fee shall be \$25.

3. Broker's special license fee shall be \$25.

4. Salesperson's special license fee shall be \$10.

## PART III. DEALER/MANUFACTURER SALES AGREEMENTS.

### § 3.1. Filing of dealer/manufacture sales agreements; contents.

A. Each licensed manufacturer shall file with the board a true copy of each new, amended, modified, or different form of dealer/manufacture sales agreement to be offered to a dealer or prospective dealer in the Commonwealth prior to the date the sales agreement is offered. The department shall review the form for terms inconsistent with the requirements of these regulations. Any forms found to contain inconsistent terms shall be reported to the board for review and notification. The department shall notify the manufacturer of the inconsistent terms and its report to the board.

B. The sales agreement between the manufacturer and

the dealer shall not include terms that are contrary to, prohibited by, or otherwise inconsistent with the requirements of these regulations.

C. The manufacturer shall include in any sales agreement with a dealer the following language or words to that effect:

"If any provision herein contravenes the laws or regulations of Virginia, or denies access to the procedures, hearings, or remedies provided by the laws or regulations of Virginia, such provision shall be deemed to be modified to conform to those laws and regulations, and all other terms and provisions of the agreement shall remain in full force."

### § 3.2. Coercion of dealer by manufacturer prohibited.

A. A manufacturer shall not coerce or attempt to coerce any dealer or prospective dealer to sell, assign, or transfer any sales contract obtained by the dealer for any manufactured home produced by the manufacturer, to a specified finance company or class of finance companies or to any other specified persons by any of the following:

1. By any statement, suggestion, promise or threat that the manufacturer will in any manner benefit or injure the dealer, whether the statement, suggestion, threat, or promise is express or implied or made directly or indirectly.

2. By any act that will benefit or injure the dealer.

3. By any contract, or any express or implied offer of contract, made directly or indirectly to the dealer, for handling the manufactured home on the condition that the dealer sell, assign, or transfer his sales contract on the manufactured home to a specified finance company or class of finance companies or to any other specified persons.

4. By any express or implied statement or representation made directly or indirectly that the dealer is under any obligation to sell, assign, or transfer any of his sales contracts because of any relationship or affiliation between the manufacturer and the finance company or persons.

B. A manufacturer shall not coerce or attempt to coerce any dealer to accept delivery of any manufactured home or homes, parts or accessories which have not been ordered by the dealer.

C. A manufacturer shall not coerce or attempt to coerce any dealer to enter into an agreement with the manufacturer, or do any other act unfair to the dealer, by threatening to cancel any sales agreement existing between the manufacturer and the dealer.

D. A manufacturer shall not coerce or attempt to coerce any dealer to join, contribute to, or affiliate with any

advertising association.

E. A manufacturer shall not require or otherwise coerce a dealer to underutilize a dealer's facilities.

§ 3.3. Grant, transfer, succession to and cancellation of dealer/manufacturer sales agreements: delivery of homes, parts, accessories.

A. Prior to granting an additional dealer/manufacturer sales agreement for a particular line of manufactured home in a relevant market area in which a dealer or dealers are already located, a manufacturer shall notify, in writing, all other dealers in the line of homes in that relevant market area. Any dealer in the same line of homes in the relevant marketing area may request a conference or hearing before the board within 30 days of receipt of the manufacturer's notice of intention to establish the additional dealer/manufacturer sales agreement. The additional sales agreement may be established at the proposed site if, after the conference or hearing, the board determines that there is reasonable evidence that after the grant of the new sales agreement, the market will support all of the dealers in that line of homes in the relevant market area. Establishing a dealer/manufacturer sales agreement in a relevant market area to replace a dealer that has ceased operation shall constitute the establishment of a new dealer/manufacturer sales agreement subject to the terms of this section.

#### EXCEPTIONS:

1. The relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more than 25 miles from any other dealer in the same line of homes.

2. The relocation of an existing dealer within that dealer's relevant market area if the relocation site will be further away from all other dealers of the same line of homes in that relevant market area than the relocating dealer's current site.

3. The relocation of an existing dealer within two miles of that dealer's current site.

B. A dealer shall give written notice to the manufacturer at least 90 days prior to the sale, assignment, or transfer of the dealer/manufacturer sales agreement. The notice shall include the identity, financial ability, and qualifications of the proposed transferee. The sale or transfer of the sales agreement or business shall not involve a relocation of the sales agreement without the manufacturer's consent. The manufacturer shall not prevent or refuse to approve the sale or transfer of the ownership of a dealer by the sale of the business, stock transfer, or otherwise, or the sale, transfer, or assignment of a dealer/manufacturer sales agreement or a change in the executive management or principal operator of the dealership, unless the manufacturer provides written notice to the dealer of its objections and the reasons therefor at

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least 30 days prior to the proposed effective date of the sale, transfer, assignment, or change. The dealer shall have 30 days from receipt of the manufacturer's objection to file a written request for a conference or hearing by the board. At the conference or hearing, the manufacturer and the dealer shall be allowed to present their reasons for and objections to the sale or transfer. The board shall determine whether the manufacturer's objection to the sale, assignment, transfer or change of the dealership is reasonable or unreasonable. The sale, transfer, assignment or change of the dealer/manufacturer sales agreement shall be allowed if the board determines the objection is unreasonable.

C. A dealer shall be allowed to designate a member of his family as a successor to the dealer/manufacturer sales agreement in the event of the death or incapacity of the dealer by providing written notice to the manufacturer of the identity, financial ability, and qualifications of the member of the family designated as successor. The manufacturer shall have the right to prevent or refuse to honor the succession to the sales agreement by notifying the family member in writing of its objections and of the person's right to request a conference or hearing on the matter before the board. The dealer shall have 30 days from receipt of the manufacturer's notice to file a written request to the board for a conference or hearing. At the conference or hearing, the dealer and manufacturer shall be allowed to present their reasons for and objections to the succession. The board shall determine if the manufacturer's objection to the succession is reasonable. The designated succession shall be allowed if the board determines the manufacturer's objection is unreasonable.

D. A dealer/manufacturer sales agreement may be cancelled or terminated at any time by mutual consent.

E. A manufacturer may terminate, cancel, or refuse to renew the sales agreement of a dealer with good cause. At least 60 days prior to the effective date of such termination, cancellation, or the expiration date of the sales agreement the manufacturer shall give written notice of his intentions to the dealer and the board, setting forth the specific grounds for the action. Within the 60-day period, the dealer may request, in writing, a conference or hearing before the board to determine if there is good cause for the termination, cancellation, or nonrenewal of the sales agreement. When the dealer has requested a board conference or hearing, the sales agreement in question shall continue in effect until the board issues a finding of good cause for the action.

If a manufacturer neither advises a dealer that it does not intend to renew a sales agreement nor takes any action to renew a sales agreement beyond its expiration date, the sales agreement in question shall continue in effect on the terms last agreed to by the parties.

A manufacturer may provide written notice of termination, cancellation or nonrenewal to a dealer not less than 15 days prior to the effective date of such

termination, cancellation or nonrenewal when the grounds for such action are any of the following:

1. Insolvency of the dealer or filing of any petition by or against the dealer, under any bankruptcy or receivership law, leading to liquidation or which is intended to lead to liquidation of the dealer's business.
2. Failure of the dealer to conduct its customary sales and service operations during its established business hours for 10 consecutive business days, except where the failure results from acts of God or circumstances beyond the direct control of the dealer.
3. Revocation of any license which the dealer is required to have to operate a dealership.
4. Conviction of the dealer or any principal of the dealer of a felony, during the term of the sales agreement.

F. The change or discontinuance of a marketing or distribution system of a particular line of manufactured homes by a manufacturer, while the name identification of the home is continued in substantial form by the same or different manufacturer, may be considered to be a sales agreement termination, cancellation, or nonrenewal. A manufacturer shall provide continued parts and service support to a dealer for a discontinued line of homes for at least five years from the date of such discontinuance.

## § 3.4. Dealer/manufacturer sales agreement warranties.

Any warranty agreements or contracts included in the sales agreement shall comply with the warranty and service requirements of Part V of these regulations.

## § 3.5. Operation of dealership by manufacturer.

A manufacturer shall not own, operate or control a dealership in the Commonwealth except under the following conditions:

1. A manufacturer may operate a dealership for a temporary period, not to exceed one year, during the transition from one owner or operator to another;
2. A manufacturer may own or control a dealership while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership; or
3. A manufacturer may own, operate, or control a dealership if the board determines, after a conference or hearing at the request of any party, that there is no dealer independent of the manufacturer available in the relevant market area to own and operate the dealer/manufacturer sales agreement in a manner consistent with the public interest.

## § 3.6. Conferences, hearings and other remedies.

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A. In every case of a conference or hearing before the board authorized by this part of the regulations, the board shall give reasonable notice of each conference or hearing to all interested parties. The board's decision shall be binding on the parties, subject to the rights of judicial review and appeal.

Conferences or hearings before the board under this part shall commence within 90 days of the request for the conference or hearing. The board's decision shall be rendered within 60 days from the conclusion of the conference or hearing.

B. The board shall initiate investigations, conduct conferences or hearings, and determine the rights of parties under this part whenever they are provided sufficient information indicating a possible violation of this part or these regulations.

C. For purposes of any matter brought to the board under § 3.3 in which the board is to determine whether there is good cause for a proposed action or whether it would be unreasonable under the circumstances, the board shall consider:

1. The volume of the affected dealer's business in the relevant market area;
2. The nature and extent of the dealer's investment in its business;
3. The adequacy of the dealer's service facilities, equipment, parts, supplies, and personnel;
4. The effect of the proposed action on the community;
5. The extent and quality of the dealer's service under warranties in Part V of these regulations.
6. The dealer's performance under the terms of its dealer/manufacture sales agreement;
7. Other economic and geographical factors reasonably associated with the proposed action; and
8. The recommendations, if any, of the department personnel requested to investigate the matter.

## PART IV. ADVERTISING.

### § 4.1. Prohibited practices.

For the purposes of this part and these regulations, the following regulated advertising practices by manufacturers, dealers, brokers, or salespersons are prohibited and shall be considered by the board to be unfair methods of competition or unfair or deceptive commercial acts or practices:

1. Advertising a manufactured home as a "new manufactured home" when the home does not meet all of the requirements for the definition of a new manufactured home in § 1.1.

2. Advertising a used manufactured home by misleading or confusing terms rather than "used" or such other term that is clearly understood to mean that the home is used. Once a title has been issued to a purchaser by the Department of Motor Vehicles, the home is considered as a used home and must be advertised as such.

3. Advertising finance charges or other interest rates when there are costs to buy down the charges or rates which are passed on to the buyer, in whole or in part.

4. Advertising terms, conditions and disclosures which are not stated clearly and conspicuously. An asterisk or other reference symbol may be used to point to a disclaimer or other information, but the disclaimer shall not contradict or change the meaning of the advertised statement.

5. Advertising a "sale" when the expiration date is not clearly and conspicuously stated.

6. Advertising "list price" in terms other than the manufacturer's suggested retail price for the new home or the dealer's own usual and customary price for the home, whichever is applicable.

7. Advertising which uses terms such as "at cost," "below cost," or "dollars off cost" and "direct from manufacturer." Terms such as "invoice price" or "dollars over invoice" may be used, provided the invoice referred to is the manufacturer's factory invoice which is available for customer inspection upon request.

8. Advertising specific price or credit terms when the manufactured home is not clearly identified as to year and model.

9. Advertising a policy to match or better a competitor's price when the terms of the offer are not specific, verifiable and reasonable. Any such advertisement shall fully disclose, as a part of the ad, any material or significant conditions which must be met or the evidence the buyer must present to take advantage of the offer.

10. Advertising which includes "dealer rebates" or "manufacturer's rebate."

11. Advertising any "free" or "at no cost" (or other words to that effect) offers of equipment or accessories in a negotiated sale. No equipment or accessory shall be described as "free" or "at cost" if its cost or any part of its cost is included in the price

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of the home, or if the home can be purchased for a lesser price without accepting the free offer, or if a purchase is required in order to receive the free offer.

12. Advertising which is determined to be "bait advertising" such as advertising homes, equipment, accessories or prices which are not available at the dealer *dealer's business location*, or advertising homes of a specific price but having available for sale only homes equipped with dealer added cost options which increase the selling price above the advertised price. If any home is available only by order, then that shall be clearly and conspicuously disclosed in the advertisement.

13. Advertising as "repossessed" any manufactured home which has not been previously sold, titled and then taken back from the buyer. Proof of repossession shall be provided by the advertiser upon request.

14. Advertising special dealer arrangements such as "big volume buying power," "manufacturer's outlet," "factory authorized outlet," ~~and~~ "factory wholesale outlet" and "direct from the manufacturer." Any term that gives the buyer the impression the dealer has a special arrangement with the manufacturer compared to similarly situated dealers is misleading and shall be prohibited. *The term "factory authorized dealer" shall be an acceptable term for advertising purposes.*

15. Advertising the length of a manufactured home as including the towing assembly or hitch.

16. Advertising in any newspaper, periodical or sign which omits the name of the firm from the advertisement.

## § 4.2. Records retention.

Advertisers shall maintain a copy of all media advertising for a period of not less than 60 days after the expiration date of the advertisement. For the purposes of this section, the expiration date of the advertisement shall be the last date the advertisement runs or the expiration date of the advertised sale, whichever is later.

## § 4.3. Violations; penalties.

A. The first violation of any regulated advertising practice may, at the discretion of the board, be addressed by a written warning to the regulant, *by certified mail*, advising the regulant of the prohibited conduct and the possible actions by the board if such conduct is continued or repeated.

B. Any violation of regulated advertising practices in this part may be considered as prohibited conduct under § 2.16 of these regulations and subject to the board's actions contained therein.

## § 4.4. Conferences or hearings.

Conferences or hearings on any complaint or notice of violation of advertising practices contained in this part shall be conducted according to the procedures established in § 2.18 of these regulations.

## PART V. WARRANTY, SERVICE AND ALTERATIONS.

### § 5.1. Warranties; provisions.

A. Each manufacturer located in or outside of the Commonwealth delivering in or shipping into the Commonwealth manufactured homes for sale shall issue with each new home a warranty to the buyer, in writing, setting forth the following terms:

1. That all structural elements; plumbing systems; heating, cooling (if any), and fuel burning systems; electrical systems; and any other components included by the manufacturer are manufactured and installed free from defect.

2. That the manufacturer shall take appropriate corrective action at the site of the manufactured home, except for components which can be removed for service without undue inconvenience to the buyer, in instances of defects which become evident after the date of delivery of the home to the buyer, provided the buyer gives notice of the defects to the manufacturer at the manufacturer's business address.

3. That the manufacturer shall take such actions deemed necessary as ordered by the board under these regulations.

B. Each dealer *located in or outside of the Commonwealth selling or delivering manufactured homes to buyers in the Commonwealth* shall issue with each manufactured home a warranty to the buyer, in writing, setting forth the following terms:

1. That any modifications or alterations made to the home by the dealer or authorized by the dealer are free from defects. Alterations or modifications made by the dealer, without written permission of the manufacturer, shall relieve the manufacturer of the warranty requirements of subsection A of this section for the item altered or modified and any damage resulting from the alteration or modification.

2. That set-up operations performed by the dealer or by persons under contract to the dealer on the manufactured home are completed in compliance with the applicable Code requirements for the installation of manufactured homes.

3. That during the course of transportation and set-up operations performed by the dealer or by persons under contract to the dealer, ~~any defects do not occur~~

to which may occur with the manufactured home will be corrected properly .

4. That the dealer shall take appropriate corrective action at the site of the manufactured home, except for components which can be removed for service without undue inconvenience to the buyer, if such defects become evident after the date of delivery of the home to the buyer, provided the buyer gives notice of the defects to the dealer at the dealer's place of business.

5. That the dealer shall take such actions deemed necessary as ordered by the board under these regulations.

C. Any warranties generally offered by suppliers in the ordinary sale of their products to consumers shall be extended to buyers of manufactured homes. The warranty by the manufacturer of the home shall remain in effect not withstanding the existence of the suppliers' warranty.

D. The regulant's warranty shall be in addition to, and not in detracton of, all other rights and privileges which the buyer may have under any other law or regulation. The regulant shall not require the buyer to waive his rights under this part and any such waiver shall be deemed contrary to public policy and shall be unenforceable and void.

## § 5.2. Duration of warranties.

All warranties provided by regulants as required by § 5.1 shall be for a period of not less than 12 months, measured from the date of delivery of the home to the buyer. The date of delivery shall be the date on which all terms or conditions of the sales contract agreed to or required of the regulant have been completed.

## § 5.3. Presenting warranty claims.

To invoke a regulant's warranty under § 5.1, the buyer shall notify the regulant within a reasonable time after discovering the defect and not later than 90 days after the expiration of the stated term of the warranty. The regulant shall make a record of the name and address of each claimant and the date, substance, and disposition of each claim about the defect. The regulant may request that a warranty claim be made in writing; however, the regulant shall record any claim received as noted above and shall not delay service pending receipt of the written claim.

## § 5.4. Service agreements; determination of responsible party.

A. If a service agreement exists between or among the manufacturer, the dealer, and the supplier to provide warranty services on a manufactured home, the service agreement shall specify which of the regulants shall be the responsible party for remedying defects reported in

the home. All service agreements shall be in writing. No service agreement shall relieve a regulant, determined by the board to be the responsible party for remedying the defect, of the responsibility for performing warranty service; however, any regulant accepting the responsibility to perform the warranty service obligations of other regulants under the service agreement shall be responsible to both the buyer and the other regulant to perform adequate warranty service.

B. If there is no warranty or service agreement between or among the regulants, the board shall have the authority to designate the responsible party for each defect given in the claim. The board may use reports and recommendations from the department staff investigating consumer complaints under the applicable provisions of the Code or may request staff to make a specific on-site inspection to determine the responsible party for remedying the defect.

C. If a warranty claim is made to a regulant that is not the responsible party for remedying the defect, that regulant shall immediately notify the claimant, in writing of that fact, and shall also notify, in writing, the regulant that is the responsible party for the defect, forwarding to the responsible party all available information about the claimant and the substance of the warranty claim.

D. If a defect is the responsibility of more than one regulant, each regulant shall be deemed to be a responsible party for the defect. A responsible party shall not fail to remedy defects because other regulants may also have joint responsibility for the defect or defects; however, nothing in these regulations shall prevent a responsible party from obtaining compensation by way of contribution or subrogation from another responsible party in accordance with any other provision of law or contracts between the regulants.

E. If a regulant corrects a defect under a warranty claim and the board determines that the regulant is not the responsible party, then that regulant shall be entitled to reasonable compensation for the warranty service performed. The compensation shall be from the responsible party for the defect.

F. It shall be a violation of this part for a regulant to coerce or require a nonresponsible party to perform warranty service under these regulations. Any regulant or responsible party may file a complaint to the board if warranty service obligations under these regulations are not being completed or enforced.

## § 5.5. Warranty service; time limits; rejection of claim.

A. Any defect which is determined to be an imminent safety hazard as defined in Section 1200.2 of the Industrialized Building and Manufactured Home Safety Regulations to life and health shall be remedied within three days of receipt of the written notice of the warranty claim. Defects which may be considered as imminent

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safety hazards to life and health include, but are not limited to, any of the following:

1. Inadequate heating in freezing weather.
2. Failure of sanitary facilities.
3. Electrical shock hazards.
4. Leaking gas.
5. Major structural failure.

The board may suspend this three-day time period in the event of widespread defects or damage resulting from adverse weather conditions or other natural disasters.

B. All other defects shall be remedied within 45 days of receipt of the written notice of the warranty claim unless a bona fide reason exists for not remedying the defect within the time period. If the responsible party has a bona fide reason for not meeting the 45-day time period, he shall respond to the claimant in writing, with a copy to the board, explaining the reason or reasons and stating what further action is contemplated regarding the warranty service.

C. Department staff handling consumer complaints under the Code shall also review the complaints for warranty service obligations under this part, and shall make initial determinations of defects and imminent safety hazards to life and health as defined by the Code. Any disagreements between department staff and regulants or responsible parties regarding these determinations shall be resolved by the board. If a regulant or responsible party disputes the determination of an imminent safety hazard to life or health by the staff and asks for a ruling by the board, the three-day time period for remedying the hazard shall not be enforced unless the board agrees to the determination. If the board determines that the defect is an imminent safety hazard, it shall immediately notify the responsible party of the determination. The responsible party shall have three days from receipt of this notice to remedy the hazard.

D. Within the time limits specified in subsections A and B of this section, the responsible party shall either resolve the claim or determine that it is not justified. Whenever a regulant determines that a claim for warranty service is not justified, in whole or in part, he shall immediately notify the claimant in writing that the claim or a part of the claim is rejected. This notice shall explain to the claimant why the claim or specific parts of the claim are rejected and that the claimant is entitled to complain or file an appeal to the board. The notice shall provide the claimant with the complete address of the board.

§ 5.6. Records; available to board.

The board or the board's representative shall be authorized to inspect the pertinent service records of a

manufacturer, dealer, supplier, or broker relating to a written warranty claim or complaint made to the board regarding that manufacturer, dealer, supplier, or broker. Such inspection shall be allowed by the regulant during reasonable business hours. Upon request by the board, every regulant shall send to the board within 10 days a true copy of any and all documents or records pertinent to the claim for service or complaint.

§ 5.7. Alterations; by dealer; by owner.

A. Unless authorized by these regulations or by the manufacturer, a dealer shall not make any alterations or modifications to a manufactured home after shipment from the manufacturer's facility. If a dealer performs an unauthorized alteration or modification in or to a manufactured home, the dealer then shall bear primary warranty responsibility for the altered or modified item(s). If the manufacturer remedies or is required by the board to remedy any warranty claim on the altered or modified item(s), then that manufacturer shall be entitled to recover damages in the amount of his costs, including attorney's fees, from the dealer responsible for the alteration or modification.

B. Unless authorized by the manufacturer, the owner or person(s) working for the owner shall not make alterations or modifications to a manufactured home after shipment from the manufacturer's facility. Any unauthorized alteration or modification made by the owner or person(s) working for the owner shall relieve the manufacturer of the responsibility to remedy any defects caused by such alteration or modification. All manufacturers shall display clearly and conspicuously on the face of their warranty to the buyer a statement explaining that the owner shall be responsible for remedying any defects caused by unauthorized alterations or modifications done by the owner or person(s) working for the owner. The statement shall also include a warning specifying any alterations or modifications which should be performed only by qualified personnel in order to preserve their warranty protection.

§ 5.8. Qualifications of personnel performing alterations.

All persons responsible for performing alterations under this part shall be deemed "qualified personnel" only when approved or certified by the manufacturer of the home.

## PART VI. MISCELLANEOUS PROVISIONS.

§ 6.1. Set-up requirements; effect on insurance policies.

A. Manufactured homes shall be set up in accordance with the Code.

B. In the event that a manufactured home is insured against damage caused by windstorm and subsequently sustains windstorm damage of a nature that indicated the home was not set up in the manner required by this section, the insurer issuing the home owner's insurance

policy on the home shall not be relieved from meeting the obligations specified in the insurance policy with respect to such damage on the basis that the manufactured home was not properly set up.

## § 6.2. Limitation on damages retained by dealer; disclosure to buyer.

A. If a buyer fails to accept delivery of a manufactured home, the dealer may retain actual damages from the buyer's deposit according to the following terms:

1. If the manufactured home is in the dealer's stock and is not specially ordered from the manufacturer for the buyer, the maximum retention shall be \$500.
2. If the manufactured home is a single section unit and is specially ordered from the manufacturer for the buyer, the maximum retention shall be \$1,000.
3. If the manufactured home is a multi-section home (two or more sections) and is specially ordered from the manufacturer for the buyer, the maximum retention shall be \$5,000.

B. A dealer shall provide a written disclosure to the buyer at the time of the sale of a manufactured home alerting the buyer to the actual damages that may be assessed of the buyer by the dealer, as listed in subsection A of this section, for failure to take delivery of the manufactured home as purchased.

## § 6.3. Other remedies not excluded.

Nothing in these regulations, nor any decision by the board, shall limit any right or remedy available to the buyer through common law or under any other statute.

## PART VII. TRANSACTION RECOVERY FUND.

### § 7.1. Recovery fund established; assessments.

A. In accordance with § 36-85.31 of the Code of Virginia, the board shall establish a Manufactured Housing Transaction Recovery Fund. Any manufacturer, dealer, broker or salesperson licensed by the board under these regulations to operate in the Commonwealth of Virginia shall pay an initial assessment fee of the following amount into the fund:

1. Manufacturer - \$4,000 for each separate manufacturing facility payable in one installment or \$4,400 payable at \$2,200 per year with the second payment due one year after initial licensing.
2. Dealer - \$500 per retail location.
3. Broker - \$500 per sales office.
4. Salesperson - \$50 per individual.

B. After the initial assessments have been paid, the board shall review the balance in the fund. In accordance with § 36-85.31 of the Code of Virginia, the minimum balance of the fund shall be \$250,000. If the initial assessments fail to achieve this minimum balance, or if future payments from the fund deplete the fund below this minimum balance, the board shall set and collect reassessment fees to achieve and maintain this minimum balance. Before setting any reassessments, the board shall notify all regulants at least 30 days prior to any meeting to set reassessment fees, advising the regulants of the purpose of the meeting and the regulants' opportunity to provide comments and suggestions prior to and at the meeting. Failure to pay any reassessment fees assessed by the board shall result in suspension of the regulant's license until such time as the regulant pays the reassessment fee.

C. All initial assessments and reassessments collected by the board under these regulations shall be deposited in an interest earning, special fund account by the State Treasurer in accordance with § 36-85.31 of the Code of Virginia. The board shall make appropriations from the fund in accordance with the express purposes set forth in Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia and these regulations. Interest earned on the deposits of the fund shall accrue to the fund or may be used by the board to provide educational programs about manufactured homes to consumers.

### § 7.2. Filing claims; investigations; conference or hearing on claim.

A. Any buyer of a manufactured home person who suffers any loss or damage by an act of a regulant that constitutes a violation of this law or these regulations shall have the right to file a claim for recovery from the fund. The department shall provide forms for filing claims. As a minimum, the following information shall be furnished with the claim:

1. The names and addresses of the regulants involved in the claim.
2. The identification of the home including the serial number, HUD label number(s), and model designations.
3. A complete explanation of the issues or actions which constitute the basis for the claim, along with copies of pertinent documents.
4. The name, address and telephone number of the claimant and the location of the home if different from the claimant's address.

B. Upon receipt of a claim, the board shall review the claim and may conduct, or cause to be conducted, an on-site inspection of the home. All regulants involved in a claim shall be notified of any on-site inspections by the board or the department under these regulations and shall



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be requested to have a representative present during the inspection. The person(s) conducting the inspection for the board or the department shall prepare a written report of the findings of the inspection, citing any defects or violations of the Code or these regulations with a reference to the specific section of the Code or regulation which serves as the basis for the violation, and identifying the regulant responsible for the defect or violation. Copies of this report shall be provided to the regulants, the claimant, and the board.

C. The board shall hold a conference or hearing on a claim for damages. The board, or the department acting on the board's behalf, shall send written notice of the conference or hearing to all involved regulants, stating the purpose of the conference or hearing and the time and place of the conference or hearing. The notice shall be sent to the regulant(s) at least 15 calendar days prior to the date of the conference or hearing. The notice shall be sent by certified mail to the address of the regulant(s), as shown on the license or other record or information in possession of the board. The conference or hearing shall be conducted by the board according to the applicable provisions of the Administrative Process Act and shall be open to the public. The regulant(s) shall have the right to be heard in person or by counsel, and to provide evidence and witnesses on his behalf.

D. After the conference or hearing, if the board finds that the buyer person has suffered a loss or damages due to the acts of a regulant that constitute a violation of these regulations, the board shall determine the amount of damages to be awarded to the claimant. The amount of damages awarded by the board shall be limited to actual compensatory damages and shall not include attorney's fees for representation before the board. The board shall order the responsible manufacturer, dealer, broker, or salesperson to pay the awarded amount to the claimant. The board's written order shall be sent by certified mail to the regulant responsible for paying the awarded amount. Within 30 days of receipt of the board's decision, the responsible regulant shall pay the awarded amount to the claimant, unless an appeal is pending.

## § 7.3. Appeals of the board's decision.

Appeals of the decision of the board shall be to a circuit court with jurisdiction in the Commonwealth. The appeal shall be filed by the regulant within 30 days of the date of the board's order, and shall stay the board's order for payment of the awarded amount. Neither the regulant nor the board shall be required to pay damages to the claimant until such time as the final order of the court is issued. In accordance with § 36-85.35 of the Code of Virginia, the court may award reasonable attorney's fees and court costs to be paid by the recovery fund.

## § 7.4. Payment of damages; limitations; conditions.

A. If a regulant has not paid the awarded amount within 30 days as provided in § 7.2 or filed an appeal to the

circuit court as provided in § 7.3, the board shall, upon request of the claimant pay the awarded amount to the claimant from the recovery fund under the following conditions:

1. The maximum claim of one claimant against the fund because of a single violation by one regulant shall be limited to \$20,000;
2. The fund balance is sufficient to pay the awarded amount;
3. The claimant has assigned the board all rights and claims against the regulant; and
4. The claimant agrees to subrogate to the board all rights of the claimant to the extent of payment.

B. The aggregate amount of claims paid from the fund for violations by any one regulant during any license period shall be as follows:

1. For a manufacturer – \$75,000.
2. For a dealer – \$35,000.
3. For a broker – \$35,000.
4. For a salesperson – \$25,000.

If the board has reason to believe there may be additional claims against the fund from other transactions by the same regulant, the board may withhold any payments, involving that regulant, from the fund for a period of not more than one year from the date the board approved the original claimant's award. After this one-year period, if the aggregate of claims against the same regulant exceeds the limitations of this section, the aggregate amount shall be prorated by the board among the claimants and paid from the fund in proportion to the amounts of their awards remaining unpaid.

## § 7.5. Revocation of license.

Upon payment to a claimant from the fund, the board shall immediately revoke the license of the regulant whose conduct resulted in the payment from the fund. Any regulant whose license is revoked under this section shall not be eligible to apply for a new license or renewal license until he has repaid the fund the full amount of the payments from the fund on his amount, plus interest, calculated at the rate of interest the recovery fund was earning at the time of the payment from the fund.

## § 7.6. Other disciplinary action not voided.

The board may take other disciplinary actions against any regulant for any violation of Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia, or these regulations. Full repayment of the amount paid from the fund for the regulant's actions shall not nullify, modify or

prohibit the affect of any disciplinary proceeding by the board against that regulant for any violations.

V.A.R. Doc. No. R95-292; Filed February 14, 1995, 2:34 p.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

**EDITOR'S NOTE:** The Department of Medical Assistance Services is reproposing amendments to the following regulations for an additional 30-day comment period. The initial proposed regulations were published in 10:22 V.A.R. July 25, 1994, for the 60-day comment period required by the Administrative Process Act. The department's review and consideration of the public comment indicated that there was considerable confusion and misunderstanding on the commenters' parts as to the substance of the regulatory package. The department believes that the misunderstanding is due to mingling of two different types of policy statements on the preprinted pages issued by the Health Care Financing Administration. Therefore, the department has obtained approval from the Health Care Financing Administration to slightly modify the preprinted pages in order to separate the previously mingled policies on liens and estates and to incorporate certain comments where they pertained to estate recoveries.

**Title of Regulation:** State Plan for Medical Assistance Relating to OBRA '93 Estate Recoveries.

VR 460-01-53. Liens and Recoveries (§ 4.17).

VR 460-02-4.1710. Lien Recoveries (Attachment 4.17 A).

VR 460-02-4.1730. Estate Recoveries (Attachment 4.17 C).

**Statutory Authority:** § 32.1-324 of the Code of Virginia.

**Public Hearing Date:** N/A – Written comments may be submitted through April 5, 1995.

(See Calendar of Events section for additional information)

**Basis and Authority:** Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of the board subject to its requirements. The Code also provides, in § 9-6.14:9.1 of the Administrative Process Act (APA), for this agency's promulgation of proposed regulations subject to the Governor's review. The board approved the agency's initial proposed regulations on June 21, 1994, for their comment period from July 25 through September 23, 1994.

Sections 32.1-326.1 and 32.1-327 of the Code of Virginia provide for the recovery, by the Title XIX agency, of expenditures for certain services from the estates of recipients. The Omnibus Budget Reconciliation Act of 1993 § 13612 (OBRA '93) permitted the recovery of Title XIX expended funds from the estates of individuals for all Medicaid covered services. The inclusion of states' estate recovery policies in their state plans for medical

assistance was required by the cited OBRA section. Since 1984, DMAS has exercised its authority under state law and recovered expenditures for all Medicaid covered services. The new federal law makes recovery of institutional payments mandatory, but the recovery of all other services' payments optional. Since Virginia law considers recovery for all services to be mandatory and not optional, this regulatory action is subject to the Article 2 requirements of the APA.

The Notice of Intended Regulatory Action for this regulation was published in the Virginia Register on February 9, 1994. As a result of the comments received during DMAS' initial comment period on these regulations, clarifications have been made in this revised proposed regulation to address the apparent misunderstandings in the first proposed regulations.

**Purpose:** The purpose of this action is to amend the Plan for Medical Assistance concerning estate recoveries consistent with the requirements of OBRA 93 § 13612 and §§ 32.1-326.1 and 32.1-327 of the Code of Virginia. The process of recovering funds when they have been expended for persons who had their own resources, but did not use them for their own medical care, returns general fund dollars to the Commonwealth.

**Summary and Analysis:** The sections of the state plan affected by this action are Liens and Recoveries (§ 4.17 and Attachments 4.17 A and C).

Prior to July 1984, the Medical Assistance program did not operate an estate recovery program because there was no state law that permitted the Department of Medical Assistance Services (DMAS) to recover payments from deceased eligibles' estates.

During the 1984 session, the General Assembly passed the law (§ 32.1-327 of the Code of Virginia) granting the medical assistance program authority to recover medical assistance payments from deceased eligibles' estates. As a result of this law, DMAS developed procedures in conjunction with the Office of the Attorney General and pursued estate recoveries. DMAS pursued recovery of estates for all medical assistance paid for deceased eligibles ages 65 or older.

During the 1993 session, the General Assembly passed the law mandating that DMAS recover from eligibles' estates assistance paid for nursing facility care. As a result, DMAS initiated a proactive investigation program that identifies nursing home care and other medical assistance paid for deceased eligibles with recoverable assets. The Estate Recovery Unit, which was initiated in 1993, performs all estate recovery activity.

Also, in 1993, OBRA '93 provided the federal mandate that all states' medical assistance programs must pursue, at minimum, recovery of payments for the following services: nursing facility, home and community based care, and related hospital and prescription drugs. States' medical

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assistance programs were also given the option to pursue recovery of medical assistance paid for any other items or services under the state plan. This OBRA section also required that state plans be amended to incorporate such estate recovery activities as the state elected to pursue.

DMAS was already fully in compliance with OBRA '93's estate recovery provisions when they were enacted. The implementation of this new state plan amendment will inform HCFA of the Commonwealth's program for recovering funds spent on long-term care and all other items or services paid under the state plan for deceased eligibles over the age of 55. DMAS, in conjunction with the Office of Attorney General, will continue to coordinate policies and procedures for evaluating the estates of deceased eligibles. As required by federal regulation, DMAS will send deceased eligibles' representatives a "Notice of Claim" specifying the medical assistance amount paid for long-term care and other items, and appeal contact information. In preparation for implementation, a general notice was sent out to the recipient population describing the Medicaid estate law and its provisions.

Adopting this regulation will incorporate the Commonwealth's process for implementing an estate recovery program into its state plan. By adopting this regulation, state funds required for the Medicaid program should be reduced to the extent payments are recovered.

Issues: Because provisions in federal regulations restrict recovery or adjustments against deceased eligible individuals' estates in situations when there is a surviving spouse, a surviving child under 21 or one who is blind or disabled, the impact in cases of extreme hardship is minimized. Family members and other persons whose distribution from a deceased eligible's estate are not exempt may pursue legal action against the Commonwealth to seek their full distribution. The process of recovering funds when they have been expended for persons who had their own resources, but did not use them for their own medical care, returns general fund dollars to the Commonwealth. Because DMAS has been pursuing these recoveries since 1984, no negative impact is anticipated as this regulatory action represents no actual policy or procedural changes.

Summary of Public Comments Received: DMAS's initial proposed regulations were published in the July 25, 1994, Virginia Register for their public comment period from July 25 through September 23, 1994. Comments were received from two Legal Aid offices and from the Virginia Poverty Law Center, Inc. DMAS's review and consideration of the received comments indicated that there was considerable confusion and misunderstanding on the commenter's parts as to the substance of the regulatory package. In large measure, it is believed that the misunderstanding is due to mingling of two different types of policy statements on the preprinted pages issued by the Health Care Financing Administration (HCFA). In light of this assessment, DMAS has, with HCFA approval, slightly

modified the preprinted pages so as to separate the previously mingled policies on liens and estates, incorporated the Legal Aid comments where they pertained to estate recoveries, and is reproposing for an additional 30 days of comment this revised proposed regulation.

Impact: Recovering funds from estates of deceased eligibles in accordance with these mandates and other state and federal laws necessitates periodic communication between DMAS and nursing facilities and other long-term care facility providers to verify patient accounts and resident information. Recovery from Medicaid eligibles' estates has limited impact on recipients but does impact the distribution of estates if no provision has been made for repayment of medical assistance. It is estimated that DMAS will recover \$400,000 in FY95 (\$200,000 GF and \$200,000 NGF) and \$400,000 in FY96 (\$200,000 GF and \$200,000 NGF). The funds are prior year recoveries which, based on accounting rules, do not affect the Medicaid budget. There are no localities which are uniquely affected by these regulations. The amendments would affect family members of deceased Medicaid recipients with sufficient resources. The cost of compliance to the public would vary depending on the incurred medical expenses of the recipient.

Forms: "Notice of Claim" - DMAS has developed a formal letter to notify the deceased eligibles' estate representatives and implement the agency's claim against estates. Standard letters, developed by DMAS' Estate Recovery Unit to secure and verify pertinent information used to initiate and recover medical assistant estate claims, include: (1) Clerk of Circuit Court, Asset Accounting, (2) Miscellaneous Sources, Asset Accounting, (3) Financial Institution Bank, Account Status, and (4) Deceased Eligible's Legal Representative Inquiry. "Estate Recovery Questionnaire," a form developed by DMAS' estate investigation staff to solicit specific information used to identify deceased eligibles with recoverable assets, is used to request information from the local eligibility offices of the Department of Social Services.

#### Summary:

*This regulatory action amends the Plan for Medical Assistance concerning estate recoveries consistent with the requirements of OBRA 93 § 13612 and §§ 32.1-326.1 and 32.1-327 of the Code of Virginia. The process of recovering funds when they have been expended for persons who had their own resources, but did not use them for their own medical care, returns general fund dollars to the Commonwealth.*

#### **VR 460-01-53. Liens and Recoveries (§ 4.17).**

Citation: 42 CFR 433.36(c); AT-78-90; 47 FR 43644

#### § 4.17. Liens and Recoveries.

Liens are imposed against an individual's property.

# Proposed Regulations

No.

Yes.

(a) Liens are imposed against an individual's property before his death because of Medicaid claims paid or to be paid on behalf of that individual following a court judgment which determined that benefits were incorrectly paid for that individual.

Item (a) is not applicable. No such lien is imposed.

Item (a) applies only to an individual's real property.

Item (a) applies only to an individual's personal property.

Item (a) applies to both an individual's real and personal property.

(b) Liens are placed against the real property of an individual before his death because of Medicaid claims paid or to be paid for that individual in accordance with 42 CFR 433.36(g)(1) and (g)(2).

Item (b) is not applicable. No such lien is imposed.

(c) Adjustments or recoveries for Medicaid claims correctly paid are imposed only in accordance with § 433.36(h) as follows. See Attachment 4.17 C .

(1) For permanently institutionalized individuals, adjustments or recoveries are made from the individual's estate or upon sale of the property subject to a lien imposed because of medical assistance paid on behalf of the individual .

(2) For any individual who received medical assistance at age 55 or older, recovery of payments are made for nursing facility services, home and community-based services, and related hospital and prescription drug services.

(i) Payments are recovered for other Medicaid services provided to individuals at age 55.

All services covered under the plan.

(ii) Payments are recovered for other Medicaid services provided to individuals at age .....

Not applicable.

(3) For any individual with long-term care insurance policies, if assets or resources are disregarded, recovery is made for all Medicaid costs for nursing facility and other long-term care services from the estate of persons who have such policies.

(d) No money payments under another program are reduced as a means of recovering Medicaid claims incorrectly paid.

(e) Liens. See Attachment 4.17-A -

(1) Specifies the process for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home. The description of the process meets the requirements of 42 CFR 433.36(d).

The Commonwealth does not impose liens therefore this section is not applicable.

(2) Defines the terms specified in 42 CFR 433.36(e).

(3) (2) Specifies the criteria by which a son or daughter can establish that he or she has been providing care under 42 CFR 433.36(f).

(3) Definitions: individual's home; equity interest in home; residing in home for at least 1 or 2 years, on a continuing basis; discharge from the medical institution and return home; and lawfully residing.

The Commonwealth does not impose liens therefore this section is not applicable.

(f) Estate recoveries.

(1) Definitions.

"Applicable medical assistance payments" means the amount of any medical assistance payments made on behalf of an individual under Title XIX of the Social Security Act.

"Estate" means with respect to a deceased individual, (i) all real and personal property and other assets held by the individual at the time of death and (ii) any other real and personal property and other assets in which the individual had any legal title or interest (to the extent of such interest) at the time of death.

(2) Attachment 4.17-C further specifies the policy for estate recoveries.

**VR 460-02-4.1710. Lien Recoveries (Attachment 4.17 A).**

§ 1. Lien recoveries.

The Commonwealth does not recover, through the imposition of liens, funds expended for recipients.

**VR 460-02-4.1730. Estate Recoveries (Attachment 4.17 C).**

§ 1. Definitions.

The following words and terms, as used in this regulation, shall have the following meaning unless the

# Proposed Regulations

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context indicates otherwise:

"Applicable medical assistance payments" means the amount of any medical assistance payments made on behalf of an individual under Title XIX of the Social Security Act.

"Estate" means, with respect to a deceased individual, (i) all real and personal property and other assets held by the individual at the time of death, and (ii) any other real and personal property and other assets in which the individual had any legal title or interest (to the extent of such interest) at the time of death.

## § 1. General.

Under the authority and consistent with the requirements of the Social Security Act § 1917, the Commonwealth recovers certain Medicaid benefits when they have been correctly paid on behalf of certain individuals. The Commonwealth seeks recovery for all services which have been paid for consistent with the coverage and reimbursement policies in the State Plan for Medical Assistance.

## § 2. Identification of deceased recipients' estates.

The Medical Assistance Title XIX agency shall take all reasonable measures to determine the existence of deceased eligible individuals with recoverable estates.

## § 3. Initiation of claim and recovery.

A. The Medical Assistance Title XIX agency's estate recovery unit will review and initiate recovery activities for all deceased eligible individual's estates identified which meet agency minimum criteria defined in subsection B of this section. A review of all deceased eligible individuals' applicable medical assistance payments paid correctly must be performed to determine the amount of the Commonwealth's claim against the estate. A "Notice of Claim" shall be sent to the deceased eligible individual's estate administrator or executor upon determination that estate recovery meets the minimum criteria. The "Notice of Claim" shall include, at minimum, (i) the deceased eligible individual's identification information, (ii) the claim amount, (iii) the agency contact, and (iv) the attached summary of applicable medical claims paid. The "Notice of Claim" shall also contain, but not necessarily be limited to, information regarding the exclusions identified below, the applicant's right to appeal, and the hardship rule.

B. The Medical Assistance Title XIX agency will, at a minimum, initiate recovery when the following conditions are met:

1. Legal estate administrator or executor has been verified.
2. Dollar amount of applicable medical assistance

payments (claim amount) and estate meets agency cost effective threshold. The Title XIX agency will determine a cost effective threshold based on the administrative costs to pursue recovery from an estate. The Title XIX agency will adjust the cost effective threshold if as the agency's administrative costs change. Recovery shall not be initiated unless both the amount of the claim and the value of the estate at least exceed the administrative cost of recovery.

3. Deceased eligible was single or surviving spouse is deceased.

4. Deceased eligible has no surviving children under 21 or children who are blind or disabled.

5. Deceased eligible was 55 years of age or older when the individual received such medical assistance.

C. Appeals related to the recovery of funds will be administered by the Medical Assistance Title XIX agency.

D. The Medical Assistance Title XIX agency will pursue recovery only to the extent that payments for applicable medical claims have been correctly made under the State Plan for Medical Assistance.

## § 4. Hardship clause.

The Medical Assistance Title XIX agency ~~may, at its discretion,~~ shall waive its claim if it determines that enforcement of the claim would result in substantial hardship to the devisees, legatees, and heirs or dependents of the individual against whose estate the claim exists. ~~Determinations of hardship will be based on criteria established by the Secretary of the U.S. Department of Health and Human Services. These criteria shall provide for special consideration of~~ Special consideration shall be given to cases in which the estate subject to recovery is (i) the sole income-producing asset of survivors (where such income is limited), such as a family farm or other family business, or (ii) a homestead of modest value, or (iii) other compelling circumstances. In cases where recovery is not waived and beneficiaries of the estate from which recovery is sought wish to satisfy the Commonwealth's claim without selling a nonliquid asset which is subject to recovery, alternative methods of recovery may be considered.

VA.R. Doc. No. R95-291; Filed February 13, 1995, 3:40 p.m.



COMMONWEALTH OF VIRGINIA  
Department of Medical Assistance Services

ROBERT C METCALF  
DIRECTOR

SUITE 300  
600 EAST BROAD STREET  
RICHMOND, VA 23219  
804/781-7333  
804/781-8541  
804/33-8034 (TDD)

<<Date>>

«Title» «FirstName» «LastName»  
«Address1»  
«Address2»  
«Address3»  
«City», «State» «PostalCode»

RE:

Re: «Receipt#»  
«MedNum»

Dear «Title» «LastName»:

Dates of Services

Provider

AMOUNT

In accordance with Sections 32.1-326.1 and 32.1-327, Code of Virginia, and Federal Regulation, CFR 42, Section 433.36, Virginia Medicaid is making a claim for these funds from any monies received which is part of the estate of the decedent.

The agency may make an adjustment or recovery under code stated above:

- (a) After the death of the individuals' surviving spouse; and
- (b) When the individual has no surviving child under the age of 21 or blind or disabled.

The Department of Medical Assistance Services has made payments in the amount of \$«Amount» for the treatments «Receipt#» received «Date»

Please make your check payable to the Department of Medical Assistance Services and send it:

Please make checks payable to the Department of Medical Assistance Services and send to:

Department of Medical Assistance Services  
Accounting Section, 10th Floor  
Attention:  
600 E. Broad Street  
Richmond, Virginia 23219

Department of Medical Assistance Services  
Accounts Receivable Unit, IPL 10th Floor  
600 East Broad Street  
Richmond, VA 23219

If you have any questions, or need additional information, please feel free to call (804) 780-8438

Sincerely,

Third Party Liability Files

with  
CORRESPONDENCE

Attachment



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

«maildate»

ROBERT C. METCALF  
DIRECTOR

SUITE 1100  
600 EAST BROAD STREET  
RICHMOND, VA 23219  
804 225-4512 FAX  
800 343-0634 TDD

«title» «first» «initial» «last»  
«address1»  
«address2»  
«address3»  
«city», «state» «zip»

RE: \_\_\_\_\_  
SSN: \_\_\_\_\_  
DMAS: \_\_\_\_\_

Dear «title» «last»:

We have information indicating that the above referenced Medicaid recipient died on \_\_\_\_\_. When a recipient of Medicaid dies, the Department of Medical Assistance Services may recover funds paid for medical services from his/her estate.

To assist us in determining whether assets exist which may be recoverable, we ask that that you provide us with copies of the decedent's will, the initial estate inventory, all accountings filed, and the final inventory. In addition, please complete the enclosed forms regarding the decedent. If there is a charge for the documents, please include a bill.

Thank you for your cooperation in this matter.

Sincerely,

\_\_\_\_\_  
Division of Client Services



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

«maildate»

ROBERT C. METCALF  
DIRECTOR

SUITE 1100  
600 EAST BROAD STREET  
RICHMOND, VA 23219  
804 225-4512 FAX  
800 343-0634 TDD

«title» «first» «initial» «last»  
«address1»  
«address2»  
«address3»  
«city», «state» «zip»

Dear «title» «last»:

Listed below are decedents who resided in your locality, received Medicaid benefits, and expired on the indicated dates. The Department of Medical Assistance Services may recover funds paid for medical services from the estates of deceased recipients.

To assist us in this effort, and to save taxpayers' dollars, we ask that you provide us with information regarding whether an estate was probated in your locality for anyone on this list. If so, can you please indicate whether there has been a final accounting?

If you find an estate which has not been closed, please provide copies of wills, list of heirs, etc., with your reply. If there is a charge for the documents, please include a bill.

Thank you for your cooperation in this matter.

Sincerely,

\_\_\_\_\_  
Division of Client Services

Name	Date of Death	Estate Probated		Final Acct'g
		Yes	No	
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

# Proposed Regulations

RC:

COMMISSIONER OF REVENUE:

REAL PROPERTY    LAND BOOKS FOR    / /    to    / /

LINE NUMBER	DESCRIPTION	LOCATION	VALUE ASSESSED	VALUE IMPROVEMENTS	TOTAL ASSESSED	TAX RATE	ASSESSMENT RATE	PAGE & LINE COMMENTS
1.	_____	_____	_____	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____	_____	_____	_____

SIGNATURE: \_\_\_\_\_

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

COMMISSIONER OF REVENUE:

PERSONAL PROPERTY    TAXBOOKS FROM    / /    to    / /

LINE NUMBER	DESCRIPTION	METHOD OF VERIFICATION	VALUATION	AMOUNT OF TAXES
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____

SIGNATURE: \_\_\_\_\_

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

REMARKS:

LEASER OR GRANTOR OFFICE:

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

RC:

1. OWNER BUYS PROPERTY TRANSFERRED IF "YES" LIST TRANSFERS:      YES \_\_\_\_\_      NO \_\_\_\_\_      FROM / /      TO / /

TO	FROM	DATE OF DEED	DESCRIPTION	VALUE OR TERMS	DEED BOOK & PAGE
----	------	--------------	-------------	----------------	------------------

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

11. OWNER BUYS PROPERTY TRANSFERRED IF "YES" LIST TRANSFERS:      YES \_\_\_\_\_      NO \_\_\_\_\_      FROM / /      TO / /

TO	FROM	DATE OF DEED	DESCRIPTION	VALUE OR TERMS	DEED BOOK & PAGE
----	------	--------------	-------------	----------------	------------------

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

SIGNATURE: \_\_\_\_\_      DATE: \_\_\_\_\_      PHONE NUMBER: \_\_\_\_\_

TITLE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_





COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

ROBERT C. METCALF  
DIRECTOR

«maildate»

SUITE 1320  
500 EAST BROAD STREET  
RICHMOND, VIRGINIA 23219  
804 786-7933  
804 325-4512 (TDD)  
800 343-0634 (TDD)

«title» «first» «initial» «last»  
«address1»  
«address2»  
«address3»  
«city», «state» «zip»

RE: \_\_\_\_\_  
SSN: \_\_\_\_\_  
DMAS: \_\_\_\_\_

Dear «title» «last»:

We have information indicating that the above referenced Medicaid recipient died on \_\_\_\_\_. When a recipient of Medicaid dies, the Department of Medical Assistance Services may recover funds paid for medical services from his/her estate.

To assist us in determining whether assets exist which may be recoverable, we ask that you please complete the attached form and return it at your earliest convenience. Enclosed is a stamped, business return envelope for your use. Please feel free to call me at (804)786-5461 if you have any questions regarding this request.

Thank you for your cooperation in this matter.

Sincerely,

\_\_\_\_\_  
Division of Client Services

(DMAS Use Only)  
To: Fiscal - TPL \_\_\_\_\_ Case Name: \_\_\_\_\_  
From: \_\_\_\_\_ Case #: \_\_\_\_\_  
Date: \_\_\_\_\_ DOD: \_\_\_\_\_

ESTATE RECOVERIES  
Review of Medicaid Eligibility Record

1. Does decedent have a surviving spouse? yes \_\_\_\_\_ no \_\_\_\_\_  
Spouse's name: \_\_\_\_\_ SSN: \_\_\_\_\_  
Address: \_\_\_\_\_

Does spouse own or rent residence? (circle one)

Dependent children? yes \_\_\_\_\_ no \_\_\_\_\_  
Name (s) \_\_\_\_\_

2. List source (s) and monthly amount of income.

\_\_\_\_\_  
\$ \_\_\_\_\_  
\_\_\_\_\_  
\$ \_\_\_\_\_

3. List source, type and value of real and personal property owned by this recipient according to eligibility record.

Source	Type	Value
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

4. List name and address of last nursing facility.

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

\*\*\*\*\*

5. What was the amount of recipient's patient pay? \_\_\_\_\_

6. How much remained in recipient's patient fund account at date of expiration? \$ \_\_\_\_\_ Current funds \_\_\_\_\_

7. Please indicate who this recipient's representative, DCA, guardian, committee, executor was/is.

Name: \_\_\_\_\_ SSN: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone # \_\_\_\_\_



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

ROBERT C. METCALF  
DIRECTOR

SUITE 1100  
500 EAST BROAD STREET  
RICHMOND, VA 23219  
(804) 786-7933  
(804) 225-4512 (Fax)  
(800) 343-0634 (TDD)

«title» «first» «initial» «last»  
«address 1»  
«address 2»  
«address 3»  
«city», «state» «zip»

RE: \_\_\_\_\_  
SSN: \_\_\_\_\_

Dear «title» «last»:

We have information that the above account holder, who was a Medicaid recipient, died on \_\_\_\_\_. When a recipient of Medicaid dies, the Department of Medical Assistance Services may recover funds paid for medical services from his/her estate. To assist us in determining whether assets exist which may be recoverable, we ask that you complete the information below for any accounts which were owned singularly or jointly by the decedent. Enclosed is a stamped, business return envelope for your use.

Thank you for your cooperation in this matter.

Sincerely,

\_\_\_\_\_  
Division of Client Services

Account 1      Account 2      Account 3      Account 4

Account Name(s): \_\_\_\_\_

Type of Account: \_\_\_\_\_

Date Opened: \_\_\_\_\_

Date Closed: \_\_\_\_\_

Closing Balance: \_\_\_\_\_

Current Balance: \_\_\_\_\_  
(if not closed)

\*No Accounts Found: \_\_\_\_\_

Signature: \_\_\_\_\_  
Title: \_\_\_\_\_



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

ROBERT C. METCALF  
DIRECTOR

SUITE 1100  
500 EAST BROAD STREET  
RICHMOND, VA 23219  
(804) 786-7933  
(804) 225-4512 (Fax)  
(800) 343-0634 (TDD)

<<Date>>

«Title» «FirstName» «LastName»  
«Address 1»  
«Address 2»  
«City», «State» «PostalCode»

RE: «Recipient»  
«MedNum»

Dear «Title» «LastName»:

The Department of Medical Assistance Services has been notified that you are representing the Estate of the above-listed Medicaid recipient.

If this information is correct, please confirm by completing the bottom of this letter or advise if you are not, so that we may investigate and determine who is the legal representative. This will allow us to place the claim with the appropriate office.

Your cooperation is appreciated.

Sincerely,

\_\_\_\_\_  
Third Party Liability Estates  
(804) 225-3541

Estate Value \$ \_\_\_\_\_

Signature \_\_\_\_\_

Telephone Number \_\_\_\_\_

djh  
(804) 225-3541

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

**Statutory Authority:** §§ 22.1-19 and 63.1-196.001 A 7 of the Code of Virginia.

**Effective Date:** April 5, 1995.

### Summary:

Provisions of the Code of Virginia regarding the licensure of child day programs by the Department of Social Services have been amended to require Board of Education accreditation of day care programs run by the public schools for preschool-age children (e.g., custodial child care or combination custodial/educational programs for children aged two to five years old, and educational programs for four-year-olds). Specifically, the legislation requires the Board of Education to incorporate into the Regulations Establishing Standards for Accrediting Public Schools in Virginia, regulations which meet or exceed those for licensing day care centers issued by the Child Day-Care Council. The council's regulations have been adopted and became effective November 1, 1993. These regulations, upon adoption, will be incorporated into the existing accrediting standards.

The regulations are minimal and incorporate by reference Child Day Care Council regulation VR 175-08-01, Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger.

Further, the regulations authorize the Superintendent of Public Instruction to make exceptions to the requirements for cause and report such exceptions to the Board of Education at least annually.

### Preamble:

The Code of Virginia designates the Department of Social Services as the agency responsible for the regulation of residential and day programs for children including child day centers. Further, the Code of Virginia requires the Child Day-Care Council to prescribe standards for those centers; however, the law requires the Board of Education to accredit programs or centers operated by local school divisions as a part of its regular school accreditation process provided those programs meet or exceed the

*requirements prescribed by the Child Day-Care Council.*

**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., Regulatory Coordinator, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2023. There may be a charge for copies.

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

## [ PART I: DEFINITIONS, EXEMPTIONS, PURPOSE, APPLICABILITY.

### § 1.1. Definitions.

*Position titles used in these standards are descriptive only and do not preclude the use of other titles in school programs.*

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

*"Admission" means a written or oral agreement for a child's provisional inclusion in the program.*

*"Adult" means any individual 18 years of age or older.*

*"Age groups"*

*"Infant" means children from birth to 16 months.*

*"Toddler" means children from 16 months up to two years.*

*"Preschool" means children from two years up to the age of eligibility to attend public school, five years by September 30.*

*"School age" means children from the age of eligibility to attend public school and older, age five or older by September 30.*

"Board" means the Virginia Board of Education.

"Center" means a child day center program offered by a local school board or division.

"Character and reputation" means findings have established, and knowledgeable and objective people agree, that the individual (i) maintains business, professional, family, and community relationships which are characterized by honesty, fairness, and truthfulness, and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage, and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

"Child" means any individual under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

Exemptions: (§ 63.1-196.001 of the Code of Virginia)

1. A child day center that has obtained an exemption pursuant to § 63.1-196.3 of the Code of Virginia;

2. A program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to approval;

3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period;

4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed 1 1/2 hours; and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation;

5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week;

6. Instructional programs offered by public and private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, including, but not limited to, early childhood special education programs and vocational child care programs and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language;

7. Education and care programs provided by public schools which are not exempt pursuant to subdivision 6 of this definition shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the commissioner;

8. Early intervention programs for children eligible under Part H of the Individuals with Disabilities Education Act wherein no child attends for more than a total of six hours per week;

9. Practice or competition in organized sports leagues;

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services;

11. Child-minding services which are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving services or participating in activities offered by the establishment;

12. A certified preschool or nursery school program operated by a private school which is accredited by a statewide accreditation organization recognized by the State Board of Education which complies with the provisions of § 63.1-196.3:1 of the Code of Virginia. The provisions of this subdivision shall expire on July 1, 1994;

13. Prescribed therapeutic recreation programs provided for children with disabilities in programs that meet the child day center definition shall not be subject to approval under this chapter until the appropriate regulations are promulgated; or

14. By policy, a child day center that is required to

# Final Regulations

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be programmatically licensed by another state agency for that service.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Contract employee" means an individual who enters into an agreement to provide specialized services for a specified period of time.

"Department" means the Virginia Department of Education.

"Department's representative" means an employee or designee of the Virginia Department of Education, acting as the authorized agent of the commissioner.

"Developmentally appropriate" means a philosophy which applies a knowledge of child development to the curriculum, the environment, adult-child interactions, and staff-parent interactions, and which recognizes the age span of the children within the group, as well as the needs of the individual child.

"Enrollment" means the actual attendance of a child as a member of the center.

"Evening care" means care provided in a center between the hours of 7 p.m. and 1 a.m., inclusively.

"Fall zone" means the area underneath and surrounding equipment that requires a resilient surface. It shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use.

"Montessori module" means a group of alternative, specific standards in the regulations allowed for all programs meeting the eligibility criteria of a Montessori preschool program, as specified in the module.

"Montessori preschool programs" are educational programs wherein the teacher training and subsequent pedagogy are approved by either American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori, thus verifying that the preschool meets the Montessori standards as outlined in the Montessori module. Only Montessori schools which meet the Montessori criteria as outlined in the Montessori module are eligible to comply with the modified licensing standards contained in that module.

"Overnight care" means care provided in a center between the hours of 1 a.m. and 5 a.m., inclusively.

"Parent" means the biological or adoptive parent or parents or legal guardian or guardians of a child enrolled

in or in the process of being admitted to a center.

"Physician" means an individual licensed to practice medicine in any of the 50 states or the District of Columbia.

"Programmatic experience in the group care of children" means time spent working directly with children in a group, in a child care situation which is located away from the child's home (e.g., Sunday school, vacation Bible school, scouts, etc.).

"Sponsor" means an individual, partnership, association, public agency, corporation or other legal entity in whom the ultimate authority and legal responsibility is vested for the administration and operation of a center subject to approval.

"Staff" means administrative, activity, service, and volunteer personnel who work in the facility.

"Staff positions" are defined as follows:

"Aide" means the individual designated to be responsible for helping the program leader/child care supervisor in supervising children and in implementing the activities and services for children.

"Program leader" or "child care supervisor" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children.

"Program director" means the primary, on-site director/coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the supervision, orientation, training, and scheduling of staff who work directly with children, whether or not the program director personally performs these functions.

"Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator may be responsible for supervising the program director or, if appropriately qualified, may concurrently serve as the program director.

"Superintendent" means the Superintendent of Public Instruction.

"Volunteers" means persons who come to the center less than once a week and are not counted toward the required number of staff.

"Volunteer personnel" means persons who work at the center once a week or more often or who are counted in the required ratio of staff-to-children. Parent volunteers, such as parents helping in the classroom of a parent cooperative preschool, are considered volunteer personnel if they are counted in the staff-to-children ratio or if they

volunteer once a week or more often.

## § 1.2. Responsibility of the Department of Education.

Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia describes the responsibility of the Department of Education for the regulation of residential and day programs for children, including child day centers.

## § 1.3. Responsibility of the Child Day-Care Council.

Section 63.1-202 of the Code of Virginia requires the Child Day-Care Council to prescribe standards for certain activities, services, and facilities for child day centers.

## § 1.4. Purpose of the standards.

The purpose of these minimum standards is to protect children of preschool age or younger who are separated from their parents during a part of the day by:

1. Ensuring that the activities, services, and facilities of centers are conducive to the well-being of children, and
2. Reducing risks in the environment.

## § 1.5. Montessori program standards.

The minimum standards in Parts I through VIII and the Montessori module in Part IX of these regulations for Montessori preschool programs wanting to meet alternative standards, apply to child day centers serving children of preschool age or younger as defined in § 1.1 of these standards.

## § 1.6. Violations.

The department shall investigate any alleged violation of the provisions of these regulations in accordance with procedures approved by the Superintendent. Centers shall be bound by any recommendations made as a result of the investigation.

## PART II. ADMINISTRATION, POLICIES AND PROCEDURES, RECORDS.

### § 2.1. Sponsors.

Each center shall have a clearly identified sponsor which shall be identified by its legal name in accordance with state requirements. Programs offered under theegis of the board shall be sponsored by the local school board.

### § 2.2. Control.

The names and addresses of individuals who hold primary financial control and officers of the sponsor or governing body shall be disclosed fully to the Department of Education. The local school board shall assume primary

financial responsibility for programs operated under these regulations.

### § 2.3. Character of sponsors.

The sponsor, represented by the individual proprietor, partners, officers, and managers delegated authority to act for a sponsor shall be of good character and reputation and shall not have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

### § 2.4. Inspection of facilities.

The sponsor shall afford the Superintendent or his agents the right at all reasonable times to inspect facilities, all of his financial books and records, and to interview his agents, employees, and any child or other person within his custody or control.

### § 2.5. Posting of certificate.

The certificate of accreditation shall be posted in a place conspicuous to the public, near the main entrance of the building or the main office.

### § 2.6. Responsibilities of the school division.

The operational responsibilities of the school division shall include, but not be limited to, the following:

1. Developing a written statement of the purpose, scope, and philosophy of the services to be provided by the center and written policies under which the center will operate;
2. Ensuring that the center's activities, services, and facilities are maintained in compliance with: these minimum standards; the terms of the current certificate issued by the department; other relevant federal, state, and local laws and regulations including the Americans with Disabilities Act and state law regarding disabilities; and the center's own policies and procedures; and
3. Identifying in writing the individuals responsible for the day-to-day operations and implementation of both these regulations and the facility's policies.

### § 2.7. Advertising prohibitions.

No center "shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made...an advertisement of any sort regarding services or anything so offered to the public, which ... contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading" (§ 63.1-196 of the Code of Virginia).

### § 2.8. Liability insurance required.

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The center shall maintain public liability insurance for bodily injury with a minimum limit of at least \$500,000 each occurrence and with a minimum limit of \$500,000 aggregate or have equivalent self-insurance which is in compliance with local codes. Evidence of insurance coverage shall be made available to the department's representative upon request unless the center is self-insured.

## § 2.9. Accident or insurance plan required.

A plan of accident or school insurance shall be available to the parent. The center may designate whether the parent's participation in the plan is optional or mandatory.

## § 2.10. Annual plan for injury prevention required.

The center shall develop an annual plan for injury prevention. This plan shall be based on documentation of injuries and a review of the activities and services.

## § 2.11. Playground safety plan required.

The center shall develop a playground safety plan which shall include:

1. Provision for active supervision by staff;
2. Positioning of staff on the playground to help meet the safety needs of children; and
3. Method of maintaining resilient surface.

## § 2.12. Hospital operated programs.

Hospital operated centers may temporarily exceed their licensed capacity during a natural disaster or other catastrophe if:

1. The center has developed a plan with defined limits for its emergency operation; and
2. The center has received prior approval of the plan by the department. The department may monitor the center during this time and impose additional requirements for the safety of children or withdraw the approval to exceed the capacity.

## § 2.13. Counting numbers of children.

If children 13 years or older receive supervision in the program, they shall be counted in the number of children receiving care.

## § 2.14. Parental notification required.

Before a child's enrollment, parents shall be provided in writing the following:

1. Operating information:

- a. The center's purpose, scope, philosophy, and any religious affiliations;
- b. The hours and days of operation and holidays or other times closed;
- c. The procedures for admission and registration of children;
- d. Fees and tuition, including whether participation in the accident or school insurance is mandatory;
- e. The phone number of the center;
- f. The program and services provided and the ages of children accepted;
- g. Organizational chart or other description of established lines of authority for persons responsible for center management within the organization; and
- h. Reasons and procedures for removal of children from rolls including the amount of notice required for the parent and center before removal from the program.

## 2. Arrival and departure for children:

- a. Policy governing a parent picking up a child after closing hours and procedures if the child is not picked up;
- b. Policy for release of children from the center only to responsible persons for whom the center has written authorization;
- c. Procedures for protecting children from traffic and other hazards during arrival and departure and when crossing streets; and
- d. A policy describing the acceptable level of supervision of children upon arrival to and departure from the center.

## 3. Program and activities:

- a. Procedures and policies about accepting and storing children's personal belongings;
- b. Discipline policies including acceptable and unacceptable discipline measures;
- c. Food policies;
- d. Transportation safety policies and procedures when provided; and
- e. Policies and procedures encouraging parental involvement.

## 4. Health and emergencies:

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- a. Procedures for storing and giving children's medications;
- b. Policy for reporting suspected child abuse; and
- c. Policy for providing emergency medical care.

## § 2-15. Staff information required.

Before staff are allowed to supervise children, staff shall be provided with the information listed in § 2-14 and the following:

1. Procedures for caring for a child who may arrive after any scheduled start time of the center;
2. Procedures to confirm absence of a child from the center when the child attends more than one care or educational arrangement a day;
3. Procedures for identifying where attending children are at all times including field trips; and
4. Procedures for action in case of lost or missing children, ill or injured children, medical emergencies, and natural disasters, including but not limited to fire, flood, or other severe weather.

## § 2-16. General record keeping.

A. All children's records and personnel records shall be treated confidentially and shall be made available to the custodial parent upon request.

B. Records, logs, and reports shall be kept. Records may be kept at a central location except as indicated otherwise in these standards.

C. All records, logs, and reports on children and staff required by these standards shall be maintained and made accessible for two years after termination of enrollment or employment unless specified otherwise.

D. All records shall be kept in accordance with the provisions of regulations of the board entitled "Management of the Student's Scholastic Record in the Public Schools of Virginia (VR 270-01-0014)."

## § 2-17. Children's records.

Each center shall maintain and keep at the center a separate record for each child enrolled which shall contain the following information:

1. Name, nickname (if any), sex, and birth date of the child;
2. Name, home address, and home phone number of each parent who has custody;
3. When applicable, work phone number and place of

employment of each parent who has custody;

4. Name and phone number of child's physician;
5. Name, address, and phone number of two designated people to call in an emergency if a parent cannot be reached;
6. Names of persons authorized to pick up the child. Appropriate legal paperwork shall be on file when the custodial parent requests the center not to release the child to the other parent;
7. Allergies and intolerance to food, medication, or any other substances, and actions to take in an emergency situation;
8. Chronic physical problems and pertinent developmental information will be kept in a category 2 file in accordance with the provisions of § 2-16 D;
9. Health information as required by §§ 2-26 through 2-27 of these regulations except that when a center is located in the same building where a child attends school and the child's record has a statement verifying the school's possession of the health record, the center is not required to maintain duplicates of the school's health record for that child provided the school's records are accessible during the center's hours of operation;
10. Written agreements between the parent and the center as required by §§ 2-21 and 2-22;
11. Name of any additional programs or schools that the child is concurrently attending and the grade or class level; and
12. Enrollment and termination date.

## § 2-18. Staff records.

Staff records shall be kept for paid staff and volunteer personnel which shall include the following:

1. Name, address, verification of age requirement, job title, and date of employment or volunteering;
2. Documentation that two or more references as to character and reputation as well as competency were checked before employment or volunteering. If a reference check is taken over the phone, documentation shall include dates of contact, names of persons contacted, the firms contacted, results, and signature of person making call;
3. Reference checks are not required for:
  - a. Staff hired before April 1, 1986, in centers initially approved prior to the implementation of these regulations;



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b. Staff who began work in previously excepted centers that were initially required to be licensed prior to the implementation of these regulations; and

c. Parents who are volunteer personnel at a cooperative preschool if the parent was referred to the school by another parent or if the board of the preschool documents in writing each year that it agrees not to obtain reference checks on families not referred by other members;

4. A criminal record check as required by the Regulation for Criminal Record Checks for Child Welfare Agencies (VR 615-36-01) adopted by the Department of Social Services or any applicable regulation of the board;

5. Name, address, and telephone number of a person to be notified in an emergency, which shall be kept at the center;

6. Written information to demonstrate that the individual possesses the education, orientation training, staff development, certification, and experience required by the job position;

7. First aid and other certification as required by the responsibilities held by the staff member;

8. Health information as required by §§ 2.20 through 2.30 of these regulations;

9. Information, to be kept at the center, about any health problems which may interfere with fulfilling the job responsibilities;

10. Date of termination when applicable; and

11. Staff records on parents who are volunteer personnel at a cooperative preschool may be combined with the children's records if the parent agrees to this arrangement.

## § 2.19. Activities log to be kept.

The center shall keep a written log of the following:

1. Children in attendance each day;
2. Medication given to children as required by § 7.4;
3. Children's accidents or injuries as required in § 7.9;
4. Quarterly asbestos inspections as required in subdivision C 2 of § 4.2 or as required by other applicable state or federal statutes and regulations; and
5. Emergency evacuation practice drills as required in § 7.7 C.

## § 2.20. Reports to be maintained.

Reports shall be filed and maintained as follows:

1. The center shall inform the Superintendent within two working days of the circumstances surrounding the following incidences:

a. Death of a child; and

b. Missing child when local authorities have been contacted for help.

2. Any suspected incidence of child abuse shall be reported in accordance with § 63.1-248.3 of the Code of Virginia.

## § 2.21. Agreement for medical treatment.

A written agreement between the parent and the center shall be in each child's record at the time of the child's enrollment. The agreement shall be signed by the parent and include:

1. An authorization for emergency medical care should an emergency occur when the parent cannot be located immediately; and

2. A statement that the center will notify the parent when the child becomes ill and that the parent will arrange to have the child picked up as soon as possible.

## § 2.22. Transportation and field trips.

When applicable, written permission from the parent authorizing the child's participation in the center's transportation and field trips shall be in the child's record.

## § 2.23. Termination.

When a center decides to terminate the enrollment of a child, the center shall provide the parent the reasons for termination in writing. Prior to termination, reasonable efforts shall be made to work with the child and the family to resolve any problems that would serve as a basis for termination.

## § 2.24. Communication between staff, parent, and child.

Before the admission of a preschool or younger child, there shall be personal communication among a staff person, the parent, and the child unless there are unusual circumstances which do not allow the child to be present for the communication. Also, programs where children attend two or fewer weeks are not required to involve the child during this communication. The purpose of the communication shall be to provide the opportunity for the parent and staff to share information and agree about the admission of the child.

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## § 2.25. Immunizations for children.

A. Regulations by the State Board of Health for the immunization of school children require documentation of all age appropriate immunizations prescribed in the regulations before each child's enrollment to a center licensed by this Commonwealth. Documentation of immunizations is not required for any child whose (i) parent submits an affidavit to the center, on the form entitled "Certification of Religious Exemption," stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices; or (ii) physician or a local health department states on a MCH 213B or MCH 213C Form that one or more of the required immunizations may be detrimental to the child's health.

B. Updated information on immunizations received shall be obtained once every six months for children under the age of two years.

C. Updated information on immunizations received shall be obtained once between each child's fourth and sixth birthdays.

## § 2.26. Physical examinations for children.

A. Each child shall have a physical examination by or under the direction of a physician before enrollment or within one month after enrollment. The schedules for examinations prior to enrollment for children are listed below:

1. Within two months prior to enrollment for children six months of age and younger;
2. Within three months prior to enrollment for children aged seven months through 18 months;
3. Within six months prior to enrollment for children aged 19 months through 24 months; and
4. Within 12 months prior to enrollment for children two years of age through five years of age.

B. Exceptions to these requirements may be made in the following instances:

1. Children transferring from a facility licensed by the Virginia Department of Social Services; certified by a local department of public welfare or social services; preschool programs licensed by the Department of Social Services; registered as a small family day home by the Virginia Department of Social Services or by a contract agency of the Virginia Department of Social Services; or approved by a licensed family day system:

a. If the initial report or a copy of the initial report of immunizations is available to the admitting facility, no additional examination is required.

b. If the initial report or a copy of the initial report is not available, a report of physical examination and immunization is required in accordance with §§ 2.26 and 2.27.

2. In accordance with subsection D of § 22.1-270 of the Code of Virginia, physical examinations are not required for any child whose parent objects on religious grounds. The parent must submit a signed statement noting that the parent objects on religious grounds and certifying that to the best of the parent's knowledge the child is in good health and free from communicable or contagious disease.

## § 2.27. Form and content of immunizations and physical examination reports for children.

A. The current form required by the Virginia Department of Health shall be used to report immunizations received and the results of the required physical examination. When the current Health Department form has not been used such as, but not limited to, when a child transfers from another state, other documentary proof of the child having received the required examination and immunization shall be accepted. Documentary proof may include, but not be limited to, an International Certificate of Immunization, another state's immunization form, or a physician's letterhead.

B. Each report shall include the date of the physical examination and dates immunizations were received.

C. Each report shall be signed by a physician, his designee, or an official of a local health department.

## § 2.28. Tuberculosis examination for staff.

A. Each staff member, including the licensee, administrator, and volunteer personnel, shall obtain and submit a statement that he is free of tuberculosis in a communicable form in accordance with LEA policy. The statement shall be submitted no later than five working days after employment or volunteering and shall:

1. Be dated within 30 days before or five working days after employment of the individual;
2. Include the types of tests used and the results; and
3. Include the signature of the physician, the physician's designee, or an official of a local health department.

When a staff member terminates work at one licensed facility or public school and begins work at a licensed center with a gap in service of six months or less, the previous statement of tuberculosis screening may be transferred to the licensed center. Centers newly subject to approval do not need to require staff hired prior to the implementation of these regulations to submit a statement of tuberculosis screening.

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B. The tuberculosis examination shall be repeated as required by a licensed physician or the local health department.

C. Any staff member who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall within one month after exposure or development receive an evaluation in accordance with subsections A and B of this section.

§ 2.29. Requirement for staff and volunteer health examination.

A. When there is evidence that the safety of children may be jeopardized by the physical health or mental health of a staff member or volunteer, a report of examination of this person by a physician or, if appropriate, a clinical psychologist skilled in the diagnosis and treatment of mental illness shall be obtained in accordance with LEA policy. The request for obtaining an examination may come from the licensee, administrator, or department.

B. If a staff member's or volunteer's examination or test results indicate that his physical or mental condition may jeopardize the safety of children or prevent his performance of duties, the staff member shall not be allowed contact with children or food served to children. The staff member may return when his condition is cleared to the satisfaction of the physician or clinical psychologist as evidenced by a signed, dated statement from the physician or clinical psychologist.

## PART III. PERSONNEL.

§ 3.1. Characteristics of staff.

A. No staff shall have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

B. All staff shall understand and be sensitive to the varying capabilities, interests, needs, and problems of children in care.

C. All staff shall be:

1. Of good character and reputation;
2. Capable of carrying out assigned responsibilities;
3. Willing and able to accept training and supervision;
4. Able to communicate effectively both orally and in writing as applicable to the job responsibility; and
5. Able to understand and apply the minimum standards in this booklet which relate to their respective responsibilities.

D. All staff who work directly with children shall have the ability to:

1. Communicate with emergency personnel and understand instructions on a prescription bottle;
2. Communicate effectively and appropriately with the age group to which the staff person is assigned;
3. Communicate effectively with parents;
4. Provide a stimulating and safe environment for the age group to which the staff person is assigned; and
5. Use materials, activities, and experiences to encourage children's growth and development.

§ 3.2. Staff holding multiple positions.

All staff who work in multiple positions within the center shall meet the qualifications for each position; however, personnel titles used in the standards are descriptive only. Centers are not required to use the same titles. The administrator or program director may have responsibilities for several centers at one site.

§ 3.3. Administrators.

A. There shall be an administrator designated to be in charge of the total operation of the center. Administrators hired after the effective date of these regulations who perform responsibilities of the program director shall be at least 21 years of age and shall possess an endorsement, or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children.

B. The administrator may perform staff orientation/training or program development functions if the administrator meets the qualifications of § 3.6 of these regulations and a written delegation of responsibility specifies the duties of the program director.

C. Montessori preschool programs may meet the alternative requirements in the Montessori module.

§ 3.4. Program director.

There shall be a program director designated to be responsible for developing and implementing the activities and services offered to children. There may be one program director for a center offering care to both school age and preschool children at one site or there may be two directors, according to the age of the children, for a center serving school age and preschool children. If a program director is responsible for a center with school age children and a center with children of preschool age or younger, the qualifications applicable to both school age and preschool age and younger shall apply.

§ 3.5. Program directors for centers with children of

preschool age or younger.

A. Program directors hired or promoted prior to the implementation of these regulations shall have until July 1, 1996, to meet the qualifications of subsection B of this section. Program directors hired or promoted after the effective date of these regulations shall meet the qualifications of subsection B of this section immediately.

B. Program directors for centers with children of preschool age or younger shall be at least 21 years of age and possess one of the following:

1. A graduate degree in a child related field from an accredited college or university and six months of age appropriate, programmatic experience in the group care of children; or
2. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of age appropriate, programmatic experience in the group care of children; or
3. Montessori preschool programs may meet the alternative requirements in the Montessori module.

#### § 3.6. Back-up for program directors.

A. For centers operating eight hours or more per day, if the program director is regularly present in the facility fewer than four hours per day, there shall be an officially designated person who shall assume the responsibility in the absence of the program director and meet the qualifications of § 3.5. In addition, if the program operates multiple shifts for working parents, a program director shall be regularly present for at least four hours of each shift or have a back-up program director who shall assume responsibility in the absence of the director and meet the qualifications of § 3.5. The grandfather clause as stated in subsection A of § 3.5 shall also apply to back-up program directors.

B. For centers operating eight hours or less per day, if the program director is regularly present in the facility less than 50% of the hours of operation, there shall be an officially designated person who shall assume responsibility in the absence of the program director and meet the qualifications of § 3.5. The grandfather clause stated in subsection A of § 3.5 shall also apply to back-up program directors.

C. Montessori preschool programs may meet the alternative requirements in the Montessori module.

#### § 3.7. Program leaders and child care supervisors.

Program leaders and child care supervisors hired or promoted prior to the implementation of these regulations shall be at least 18 years of age and have a high school diploma or G.E.D. In addition, program leaders and child care supervisors who are hired or promoted after the

effective date of these regulations and who work with children of preschool age or younger shall have until July 1, 1996, to meet the program director qualifications in § 3.5 or possess one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university; or
2. Montessori preschool programs may meet the alternative requirements in the Montessori module.
3. Program leaders or child care supervisor employed on or before the implementation of these regulations shall have until July 1, 1996, to meet these requirements.

#### § 3.8. Aides.

Aides shall be at least 18 years of age, have a high school diploma or G.E.D., and shall meet the general qualifications, health, orientation training, and staff development requirements for the applicable position.

#### § 3.9. Volunteer personnel.

Volunteer personnel shall meet the qualifications for the applicable position.

#### § 3.10. Volunteers.

A. The duties of volunteers shall be clearly defined.

B. Volunteers who work with children of preschool age or younger shall be at least 14 years of age or meet the requirements developed by the local school board.

#### § 3.11. Orientation training.

Before assuming job responsibilities, all staff shall receive the following training:

1. Job responsibilities and to whom they report;
2. The policies and procedures listed in §§ 2.14 and 2.15 that relate to the staff member's responsibilities;
3. The center's playground safety plan unless the staff member will have no responsibility for playground activities or equipment;
4. Confidential treatment of personal information about children in care and their families; and
5. The minimum standards in this booklet which relate to the staff member's responsibilities.

#### § 3.12. Staff development.

A. The center shall have a plan for staff development.

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B. Staff development activities to meet subsection C of this section shall:

1. Be related to children and the function of the center;
2. Consist of some sources outside the center which may include but not be limited to audio and visual tapes, conferences, and workshops;
3. Be from someone with verifiable expertise or experience when conducted as in-service training;
4. Include annually the topics of safety for children, child development and discipline, and playground supervision for staff; and
5. Include planned instructional objectives and an assessment component to measure achievement of the desired outcomes.

C. In addition to first aid and orientation training required elsewhere in these regulations, employed staff who work directly with children shall annually attend 16 hours of staff development activities related to child development or early childhood programming.

D. Montessori preschool programs may meet the alternative requirements in the Montessori module.

## § 3.13. Health observation of children by staff.

There shall be at least one staff member on duty at all times who has obtained instruction in performing the daily health observation of children. This instruction shall be obtained from a physician, registered nurse, or health department medical personnel at a three-year interval.

## PART IV. PHYSICAL PLANT.

### § 4.1. Requirements prior to initial approval.

A. Before issuance of initial approval and before use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be secured, maintained, and made available to the department upon request:

1. Inspection and approval from the appropriate authority that the buildings meet building codes or that the center has an approved plan of correction; and
2. Inspection and approval from the local health department, or approval of a plan of correction, for meeting requirements for:
  - a. Water supply;
  - b. Sewage disposal system; and

e. Food service, if applicable.

Any building which is currently approved for school occupancy and which houses a public school during the school year shall be considered to have met the requirements of subdivision A 1 of this section when housing a center only serving children 2 1/2 years of age or older.

B. If a building was under construction before 1978, a written statement from a Virginia licensed asbestos inspector and management planner shall be secured, maintained, and made available to the department upon request before initial approval in order to comply with § 62.1-198.01 of the Code of Virginia. The statement shall include:

1. Verification that the building in which the child day center is located was inspected for asbestos according to the requirements of the Asbestos Hazard Emergency Response Act - 40 CFR Part 763 - Asbestos Containing Materials in Schools;
2. The dates of the inspection;
3. Whether asbestos was found in the building;
4. Signature of the licensed asbestos inspector and management planner, including the Virginia license numbers; and
5. If asbestos is found or assumed, the statement shall include:
  - a. The location of any significant asbestos hazard areas;
  - b. Verification of completion of the management plan;
  - c. Response actions recommended by the inspector; and
  - d. Verification that response actions have been completed.

C. If asbestos was found in the building, before an approval is granted, the prospective program operator shall:

1. Secure, maintain, and make available to the department upon request a signed, written statement that:
  - a. Response actions to remove all asbestos containing materials have been completed; or
  - b. The recommendations of the operations and maintenance plan will be followed, appropriate staff will receive the necessary training and documentation of required inspections will be

completed.

2. Maintain documentation of removal at the center for review by the department's representative.

3. Send written notification to the parents, department, and other adult occupants of the building about the presence and location of the asbestos containing material as well as the advisement that the asbestos inspection report and operation and maintenance plan are available for review. A copy of this notification shall be submitted to the department.

D. The asbestos requirements of subsections B and C of this section do not apply to child day centers located in a currently operating public school building or a state owned building since the asbestos requirements of these buildings are regulated by other agencies.

E. The department may request that the complete asbestos inspection report and operations and maintenance plan be submitted for review.

#### § 4.2. Requirements subsequent to initial approval.

A. Every 12 months, written documentation shall be obtained and provided to the department, if requested, of inspection and approval from the appropriate fire prevention official that the center's facility complies with the Statewide Fire Prevention Code. If a center is located in a building currently housing a public school during the school year, the school's fire inspection report may be accepted in lieu of the requirements of this subsection if the inspection was completed within the past 12 months.

B. Subsequent to initial approval, and as required by the local health department, written documentation shall be provided upon request of any additional inspections and approvals, or approvals of a plan of correction, for meeting:

1. Water supply;
2. Sewage disposal system; and
3. Food service, if applicable.

C. For those buildings where asbestos containing materials are found or assumed and not removed:

1. The administrator or a designated staff member shall take the required asbestos training as specified in the operations and maintenance plan for the facility;
2. The administrator or a designated staff member who has received the required asbestos training shall conduct visual inspections of all asbestos containing materials according to the schedule recommended in the management plan and document the date and the findings of these inspections; and

3. New parents and new adult occupants of the building shall be provided written notification of the presence and location of asbestos in the building and be advised that the asbestos inspection report and operations and maintenance plan are available for their review. A copy of this written notification shall be maintained at the center for review by the department's representative.

D. For those buildings where asbestos containing materials have been found or assumed and asbestos has been removed, the center shall maintain at the center documentation of that removal for review by the department's representative. Unless all asbestos containing materials have been removed, the operations and maintenance plan shall be followed for any remaining asbestos material.

E. Subsections C and D do not apply to child day centers located in a currently operating public school building or a state owned building since the asbestos requirements of these buildings are regulated by other agencies.

#### § 4.3. Areas and equipment.

The facility's areas and equipment, inside and outside, shall be:

1. Maintained in clean and sanitary condition;
2. Maintained in conditions that are safe and free of hazards such as, but not limited to, sharp points or corners, splinters, protruding nails, loose rusty parts, and objects small enough to be swallowed, except that Montessori preschool programs may meet the alternative requirements in the Montessori module; and
3. Maintained in operable condition.

#### § 4.4. Heating provisions.

A. A heating system shall be provided. The heating system shall meet the following specifications:

1. It shall be approved by the appropriate building official;
2. Heating shall not be provided by stoves;
3. It shall be installed to prevent accessibility of children to the system;
4. It shall have appropriate barriers to prevent children from being burned, shocked, or injured from heating equipment. In addition, proper supervision shall be available to prevent injury; and
5. In case of emergency, portable electric or kerosene heaters may be used if they have been previously

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inspected and approved by the appropriate building official:

B. In areas used by children, the temperature shall be maintained no lower than 68°F.

## § 4.5. Provisions for cooling in extreme conditions.

Fans or other cooling system shall be used when the temperature of areas used by children exceeds 80°F.

## § 4.6. Drinking water.

Drinking water fountains or individual disposable cups, or both, shall be provided. Drinking water shall be available and accessible at all times.

## § 4.7. Other equipment.

Building equipment shall include, but not be limited to, the following:

1. Outside lighting provided at entrances and exits used by children before sunrise or after sundown;
2. A working, nonpay telephone;
3. First aid kit or kits; and
4. Provision for locking medication as described in § 7.4.

## § 4.8. Hazardous substances and other harmful agents.

A. No center shall be located where conditions exist that would be hazardous to the health and safety of children.

B. Hazardous substances such as cleaning materials, insecticides, and pesticides shall be kept away from food preparation and storage areas and in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to the children.

C. Hazardous substances shall be stored in the original container unless this container is of such a large size that its use would be impractical.

D. If hazardous substances are not kept in original containers, the substitute containers shall clearly indicate their contents and shall not resemble food or beverage containers.

E. Cosmetics, medications, or other harmful agents of staff members shall not be stored in areas, purses or pockets that are accessible to children.

F. Hazardous art and craft materials, such as those listed in Appendix II, shall not be used with children.

## § 4.9. Other safety precautions.

In areas used by children of preschool age and younger, the following shall apply:

### 1. Steps with three or more risers shall have:

- a. Handrails within the normal handgrasp of the children; or
- b. A banister with vertical posts, between the handrail and each step, which can be safely grasped by the children. The distance between the posts shall be no greater than three and one half inches.

2. Fans, when used, shall be secured and out of reach of children.

3. All electrical outlets shall have protective caps or other equivalent, approved, protective devices and be of a size that cannot be swallowed by children.

## § 4.10. Activity space.

A. There shall be 35 square feet of indoor space available to each child where activities are conducted, except that centers in operation prior to the implementation of these regulations and those newly subject to approval may have until July 1, 1996, to meet this requirement.

B. Areas not routinely used for children's activities shall not be calculated as available activity space. Space not calculated shall include, but not be limited to, offices, hallways, restrooms, kitchens, storage rooms or closets, and space occupied by equipment which is not used in or does not contribute to the children's activities.

C. A place away from the children's activity area shall be designated for children who are ill, injured, tired, or emotionally upset.

D. Activity space shall be arranged so that when playing on the floor, children at each developmental stage shall be protected from children at more advanced developmental stages.

## § 4.11. Smoking prohibited.

Smoking shall be prohibited inside the center and outside the center in the presence of children, except that smoking may be allowed inside the building if it occurs in a room with a separate air circulation system from the one used for children's areas and the circulation system is vented directly to the outdoors.

## § 4.12. Other space provisions.

Space in areas used by infants shall be calculated separately from space for older children. One of the following methods to calculate available activity space for infants shall be used:

1. Centers shall have a minimum of 25 square feet of available activity space per infant when space occupied by cribs and changing tables is deducted from the calculation of available activity space; or

2. Centers shall have a minimum of 35 square feet of available activity space per infant when space occupied by cribs and changing tables is included in the calculation of available activity space.

## § 4.13. Restrooms:

A. Centers shall have at least two toilets and two sinks.

B. Each restroom provided for children shall:

1. Be within a confined area;
2. Be accessible and within the building used by the children;
3. Have toilets that are all flushable;
4. Have sinks that are all equipped with running water which does not exceed 120°F; and
5. Be equipped with soap, toilet paper, and disposable towels.

C. For restrooms available to boys, urinals may be substituted for not more than one-half the required number of toilets, provided the center has at least two toilets.

D. An adult size toilet with privacy shall be provided for staff use. Staff toilets may be counted in the number of required toilets for children only if children are allowed unrestricted access to them on a routine basis.

E. Restroom areas shall have at least one toilet and one sink for every 15 preschool children. When sharing restroom areas with other programs, the children in the other programs shall be included in the toilet and sink ratio calculations. The toilet and sink ratio appropriate to the younger age group shall apply. Centers in operation prior to the implementation of these regulations and newly subject to approval may have until July 1, 1996, to meet this requirement and Montessori preschool programs may meet the alternative requirements in the Montessori module.

F. When child size toilets, urinals, and low sinks are not available in restrooms used by children of preschool age and younger, one or more platform or set of steps shall be available so that children may use adult size toilets and sinks without help or undue delay.

§ 4.14. Requirements for centers with children who are not toilet trained:

A. Centers that serve children who are not toilet trained

shall provide a diapering area which allows for sight and sound supervision of children in the classroom or is accessible and within the building used by children if the staff-to-children ratios required by subdivisions 1 through 4 of § 5.2 are maintained in the classroom. The diapering area shall have at least the following:

1. A sink with running warm water not to exceed 120°F;
2. A changing table or counter equipped with a nonabsorbent surface for changing diapers of children below the age of three;
3. A nonabsorbent surface for changing diapers of children three years of age or older;
4. A leakproof storage system for diapers that is not hand operated;
5. A covered receptacle for soiled bed linens; and
6. Soap and disposable towels.

B. For every 10 children in the process of being toilet trained there shall be at least one toilet chair, or one child-sized toilet, or at least one adult sized toilet with a platform or steps and an available adapter seat. The location of these items shall allow for sight and sound supervision of children in the classroom or be accessible and within the building used by children if the staff to children ratios required by subdivisions 1 through 4 of § 5.2 are maintained in the classroom while other children are being escorted to toileting locations.

C. When only toilet chairs are used, there shall be a toilet located in an area or room in which the door is not more than 10 feet from the area used for the majority of the day by the children being toilet trained.

## § 4.15. Grandfather provisions:

Centers in operation prior to the implementation of these regulations and those newly subject to approval may have until July 1, 1996, to meet the requirements of § 4.16.

## § 4.16. Outdoor play areas:

A. The outdoor play area shall provide a minimum of 75 square feet of space per child in the area at any one time.

B. Playgrounds shall be located and designed in a way to protect children from hazardous situations.

C. While § 6.9 addresses the variety and amount of materials and equipment available for children, the specific playground equipment the center shall have is not designated. If playground equipment is provided, resilient surfacing that helps absorb the shock if a child falls off



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the equipment shall be placed under all fixed playground equipment with moving parts or climbing apparatus to create a fall zone free of hazardous obstacles. Fall zones are defined as the area underneath and surrounding equipment that requires a resilient surface. It shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use. For recommendations concerning resilient surfacing, see Appendix III.

Montessori preschool programs may meet the alternative requirements in the Montessori module.

D. Ground supports shall be covered with materials which would protect children from injury.

E. Equipment used by children shall:

1. Have no accessible openings between 3 1/2 inches and nine inches;
2. Have closed S-hooks when provided; and
3. Have no protrusions, sharp points, shearing points, or pinch points.

F. All outdoor swing seats shall be made of flexible material except for infant swings if they are specifically designed to provide the necessary support required for infants and if the swings are located in a separate area where no other children can enter or walk around in the protected swing area.

G. Sandboxes with bottoms which prevent drainage shall be covered when not in use.

H. For activity areas, both inside and outside, that are used by toddlers and preschool children, the climbing portion of slides and climbing equipment shall not be more than seven feet high.

I. Centers licensed for the care of infants and toddlers shall provide a separate playground area for these children which has at least 25 square feet of unpaved surface per infant/toddler on the outdoor area at any one time. This unpaved surface shall be suitable for crawling infants and for toddlers learning to walk. This space may be counted as part of the 75 square feet required in § 4.16.

## PART V. STAFFING AND SUPERVISION.

§ 5.1. General provisions:

A. All aides, volunteer personnel, and volunteers shall be under the individual supervision of a staff member on site who meets the qualifications of a program leader, child care supervisor or program director.

B. Each person serving in the positions of a program

director, back-up program director, program leader or child care supervisor shall not be responsible for the individual supervision of more than two aides at any one time. In a training environment, aides used beyond the required staff-to-children ratio of subdivisions 1 through 4 of § 5.2 shall not be included in the above requirement.

C. When with children, contract employees shall be sight supervised by a staff member unless the contract employee meets the personnel, health, and orientation training requirement for the applicable position.

D. All staff assigned responsibility for supervision of children shall ensure their care, protection, and guidance at all times. At no time shall supervisory responsibility be given to children under the age of 14.

E. During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the administrator or an adult appointed by the school division or designated by the administrator.

F. There shall be in each building of the center and on field trips at all times when one or more children are present:

1. At least two staff, one of whom meets the qualifications of a program leader, child care supervisor or program director; or

2. One staff member who meets the qualifications of a program leader, child care supervisor or program director and a readily available designated support person with direct means for communication between the two of them.

G. In each grouping of children at least one staff member who meets the qualifications of a program leader, child care supervisor or program director shall be regularly present.

H. Children under 10 years of age shall be within actual sight and sound supervision of staff at all times, except that staff need only be able to hear a child who is using the restroom provided that:

1. There is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care do not enter the restroom area while in use by children, and

2. Staff check on a child who has not returned from the restroom after five minutes.

I. When the outdoor activity area is not adjacent to the center, there shall be at least two staff on the outdoor activity area whenever one or more children are present.

J. Staff shall greet each child upon arrival at the center and oversee each child's departure from the center.

*K. Staff shall ensure the immediate safety of a child during diapering.*

*L. Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children.*

*M. A child volunteer not enrolled in the program shall not be counted as a child in the staff-to-children ratio requirements.*

*N. When children are regularly in ongoing mixed age groups, the staff-to-children ratio applicable to the youngest child in the group shall apply to the entire group, except that Montessori preschool programs may meet the alternative requirements in the Montessori module.*

*O. During the designated rest period, the number of staff directly supervising children may be reduced if:*

- 1. A staff person is within sight and sound of the resting/sleeping children, and*
- 2. Sufficient staff to provide the regular adult-child ratio are within the facility and available to assure safe evacuation in an emergency.*

## *§ 5.2. Staff-child ratios.*

*In each grouping of children, the following ratios of staff-to-children are required wherever children are in care:*

- 1. For children from birth to the age of 16 months: one staff member per four children;*
- 2. For children 16 months old to two years: one staff member per five children;*
- 3. For children from two years to four years: one staff member per 8 children with no group larger than 16;*
- 4. For children from four years to the age of eligibility to attend public school, five years by September 30: one staff member per 10 children with no group larger than 20. Programs serving children of this age group who have been identified as "at-risk" shall have a ratio of 8-1 with no group larger than 16; and*
- 5. Montessori preschool programs may meet the alternative requirements in the Montessori module.*

## *PART VI. PROGRAMS, ACTIVITIES, PARENTAL INVOLVEMENT, EQUIPMENT, BEHAVIOR GUIDANCE.*

### *§ 6.1. Center schedule.*

*A. There shall be a predictable sequence to the day for*

*children 16 months or older but the schedule shall be flexible, based on children's needs.*

*B. For centers operating more than two hours per day or more than two hours per session per day, outdoor activity shall be provided daily, weather allowing, according to the following:*

- 1. If the center operates between two and five and one-half hours per day or per session, there shall be at least 30 minutes of outdoor activity per day or per session.*
- 2. If the center operates more than five and one-half hours per day or per session, there shall be at least one hour of outdoor activity per day or per session.*
- 3. Outdoor activity is not required on days when an all day field trip occurs and Montessori preschool programs may meet the alternative requirements in the Montessori module for subdivision 2 of this subsection.*

*C. Staff shall provide opportunities for children to engage in self-chosen tasks and activities and allow children to learn from self-directed problem-solving and experimentation.*

*D. The daily schedule which describes the typical sequence of daily activities for toddlers and preschoolers shall be posted in a place conspicuous to parents and staff.*

*E. There shall be a flexible schedule for infants based on their individual needs.*

### *§ 6.2. Rest periods.*

*A. Centers operating five or more hours per day or per session shall have a designated rest period for preschool children and toddlers in attendance at the time of the rest period.*

*B. For centers operating five or more hours per day or per session, the following requirements for preschool children and toddlers during the designated rest period shall apply:*

- 1. The rest period shall be at least one hour but no more than two hours unless children are actually sleeping;*
- 2. Cots, beds, or rest mats shall be used during the rest period; and*
- 3. After the first 30 minutes of a rest period, nonsleeping children shall be allowed to participate in quiet activities, which may include, but not be limited to, books, records, puzzles, coloring, or manipulatives.*

### *§ 6.3. Developmentally appropriate activities.*

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A. The daily activities shall be developmentally appropriate and promote the individual child's physical, intellectual, emotional, and social well-being and growth as well as promoting curiosity and exploration.

B. To promote emotional development, the center shall provide for:

1. Opportunities for individual self-expression;
2. Recognition that each child is an individual;
3. Respect for personal privacy; and
4. Respect for each child's cultural, ethnic, and family background as well as the child's primary language or dialect.

C. To promote social development, the center shall provide:

1. Guidance to children in developing and working out ways of getting along with one another;
2. Staff interaction with children in ways which emphasize and foster attitudes of mutual respect between adults and children; and
3. Staff behavior which demonstrates respect for all other persons as individuals and appreciation of cultural and ethnic diversity.

D. The center shall provide for the self-direction of the children by:

1. Allowing children opportunities to choose activities according to personal desires and interests and to move freely from one activity to another;
2. Encouraging children to do things independently and to help with daily routines as appropriate to the child's developmental level but to be available to comfort and help when needed; and
3. Supporting children's friendships and providing children opportunities to be involved in decision making about group and individual activities.

E. A variety of children's activities shall be provided that allow for group and individual involvement and child and staff initiation.

## § 6.4. Assistance with activities.

For children who cannot move without help, staff shall offer to change the places and position of the child and the selection of toys or objects available to the child at least every 30 minutes or more frequently depending on the individual needs of the child.

## § 6.5. Other activities.

A. The center shall provide a balance of active and quiet activities.

B. Children of all ages shall be allowed to rest or sleep as needed on cribs, cots, mats, or beds, as appropriate.

C. Resting or sleeping infants and toddlers shall be individually checked at least every 30 minutes.

D. Daily activities and experiences for preschool children, which are explained in Appendix IV, shall include, but not be limited to:

1. Art activities;
2. Rhythm, movement, and music;
3. Language and communication experiences;
4. Sensory experiences and exploration of the environment;
5. Construction;
6. Social living;
7. Water and sand play;
8. Small motor activities; and
9. Large motor activities.

Montessori preschool programs may meet the alternative requirements in the Montessori module.

## § 6.6. Toddlers' activities.

A. For toddlers, the center shall provide daily equipment and opportunities for sensory and perceptual experiences, large and small motor development, and language development.

B. Daily activities and experiences for toddlers, which are explained in Appendix V, shall include, but not be limited to:

1. Art activities;
2. Rhythm, movement, and music;
3. Language and communication experiences;
4. Sensory experiences and exploration of the environment;
5. Construction;
6. Social living;
7. Water and sand play;

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8. Small motor activities; and

9. Large motor activities.

C. Staff shall encourage language development by one-to-one face-to-face conversations giving toddlers time to initiate and respond; labeling and describing objects and events; helping children put feelings into words; and expanding on toddler language.

D. Staff shall express affection; support toddler's growing independence such as dressing and eating; and making choices in activities and routines.

E. Staff shall support toddler's developing self-control by expressing feelings with words; giving positively worded directions; and modeling and redirecting behavior.

F. Parents of toddlers shall receive daily verbal feedback about:

1. Daily activities;
2. Physical well-being; and
3. Developmental milestones.

## § 6.7. Infants' activities.

A. For infants, the center shall provide daily equipment and opportunities for sensory and perceptual experiences; large and small motor development; and language development.

B. Staff shall promptly respond to infants' needs for food and comfort.

C. Infant play spaces may include but not be limited to cribs; infant seats; infant swings; high chairs; and floor area and shall:

1. Offer opportunities for least restrictive environment;
2. Offer a diversity of experiences for the infant; and
3. Provide frequent opportunities to creep, crawl, toddle, and walk.

D. An awake infant not playing on the floor or ground shall be provided a change in play space at least every 30 minutes, and more often as determined by the needs and demands of the individual infant. For awake infants playing on the floor or ground, staff shall change the position of the infant and the selection of toys available to the infant every 30 minutes or more often as determined by the needs and demands of the individual infant.

E. An infant or toddler who falls asleep in a play space other than his own crib, cot, mat, or bed shall be moved promptly to his own crib, cot, mat, or bed.

F. Stimulation shall be regularly provided for infants in a variety of ways including being held, cuddled, talked to, and played with by staff.

G. For each infant, the center shall post a daily record which can be easily seen by both the parent and by the staff working with the children. The record shall include the following information:

1. The amount of time the infant slept;
2. The amount of food consumed and the time;
3. A description and the time of bowel movements; and
4. Developmental milestones.

## § 6.8. Parental involvement.

A. The center shall be open for parents to visit and observe their children at any time as stated in § 63.1-210.1 of the Code of Virginia or in accordance with local school board policy.

B. The center shall encourage parental involvement on a volunteer basis in appropriate center activities.

C. Staff shall frequently and in person make direct contact with parents to share information about their child's health, development, behavior, adjustment, and needs.

## § 6.9. Equipment and materials.

A. All furnishings, equipment, and materials shall be of a developmentally appropriate size for the child using it.

B. The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be developmentally appropriate for the children and shall include equipment and materials which:

1. Are in sufficient supply to avoid excessive competition among the children and to avoid long waits for use of the materials and equipment;
2. Provide for a variety of experiences and appeal to the individual interests and abilities of children;
3. Are accessible to children for the activities required by these standards;
4. Allow children to use small and large muscles for imaginative play and creative activities; and
5. Include multicultural materials.

C. Indoor slides and climbing equipment shall not be over bare concrete, hardwood floors, masonry, vinyl, tile

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surface or similar surface.

D. Storage space for play materials and equipment used by the children shall be accessible to children either independently or with help.

E. If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

F. All disposable products shall be used once and discarded.

G. Disposable dishes and utensils shall be sturdy enough to contain food without leakage and to prevent harm and injury to children.

H. Individualized space such as, but not limited to, lockers or cubbies for each preschool and younger child's clothing and personal items shall be provided.

I. In each classroom grouping of children of preschool age or younger, at least one area, shelf, or cupboard space where materials can be readily and freely chosen by children during active play periods shall be available.

J. Equipment and play materials for infants shall include, but not be limited to balls, busy boards, books, rattles, dolls, play mats, soft blocks, nesting and stacking toys, squeeze toys, music boxes, and mirrors placed where infants can see themselves.

K. Playpens and infant walkers shall not be used.

## § 6-10. Cribs, cots, rest mats and beds.

A. Cribs, cots, rest mats or beds shall be provided to children present during the designated rest period and no more than one child at a time shall occupy a crib, cot, rest mat, or bed.

B. Cribs, cots, rest mats, and beds shall be marked or identified in some way for use by a specific child.

C. Double decker cribs, cots, or beds, or other sleeping equipment which is stacked shall not be used.

D. Occupied cribs, cots, rest mats, and beds shall be at least 2 1/2 feet from any heat source in use.

E. There shall be at least 15 inches of space between sides and ends of occupied cots, beds, and rest mats, except that 15 inches of space are not required where cots, beds, or rest mats touch the wall or where screens are placed between cots or beds as long as one side is open at all times to allow for passage.

F. If rest mats are used, they shall have comfortable cushioning and be sanitized between each use.

G. Cribs shall be used for children under 12 months of age and for children over 12 months of age who are not

developmentally ready to sleep on a cot or mat.

H. Cribs shall meet the following requirements:

1. They shall meet the Consumer Product Safety Commission Standards at the time they were made;

2. There shall be no more than six centimeters or 2 3/8 inches of space between slats;

3. Mattresses shall fit snugly next to the crib; and

4. End panel cut-outs in cribs shall be of a size not to cause head entrapment.

I. No cribs shall be placed where objects outside the crib such as cords from blinds or curtains are in reach of infants or toddlers.

J. There shall be at least:

1. Twelve inches of space between the sides and ends of occupied cribs except where they touch the wall, and

2. Thirty inches of space between service sides of occupied cribs and other furniture when that space is the walkway for staff to gain access to any child in any crib.

K. Crib sides shall always be up and the fastenings secured when a child is in the crib, except when staff is giving the child immediate attention.

L. Pillows shall not be used by children under two years of age.

M. No toys shall be hung over or attached to cribs.

## § 6-11. Linens.

A. Linens for cribs, cots, rest mats, or beds shall consist of a top cover and a bottom cover or a one-piece covering which is open on three edges.

B. Linens shall be assigned for individual use.

C. Linens shall be maintained in clean and sanitary condition and shall be washed at least weekly except for crib sheets which shall be cleaned daily.

D. When pillows are used, they shall be assigned for individual use and covered with pillowcases.

E. Mattresses when used shall be covered with a waterproof material which can be easily sanitized.

## § 6-12. Discipline.

A. Discipline shall be constructive in nature and include techniques such as:

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1. Using limits that are fair, consistently applied, and appropriate and understandable for the child's level;

2. Providing children with reasons for limits;

3. Giving positively worded directions;

4. Modeling and redirecting children to acceptable behavior;

5. Helping children to constructively express their feelings and frustrations to resolve conflict; and

6. Arranging equipment, materials, activities, and schedules in a way that promotes desirable behavior.

B. There shall be no physical punishment or disciplinary action administered to the body such as, but not limited to, spanking; roughly handling a child; forcing a child to assume an uncomfortable position (e.g., standing on one foot, keeping arms raised above or horizontal to the body); restraining to restrict movement through binding or tying; enclosing in a confined space, box, or similar cubicle; or using exercise as punishment.

C. A child shall not be shaken at any time.

D. Staff shall not be verbally abusive which would include, but not be limited to, threats, belittling remarks about any child, his family, his race, his religion, or his cultural background, or other statements that are frightening or humiliating to the child.

E. When disciplining a child, staff shall not:

1. Force, withhold, or substitute food;

2. Force or withhold naps; or

3. Punish a child for toileting accidents.

F. When separation is used as a discipline technique, it shall be brief and appropriate to the child's developmental level and circumstances. The child who is separated from the group shall be in a safe, lighted, well-ventilated place and shall be within hearing and vision of a staff member.

G. No child, for punishment or any other reason, shall ever be confined in any space that the child cannot open, such as but not limited to closets, locked rooms, latched pantries, or containers.

H. Staff shall not give a child authority to punish another child nor shall staff consent to a child punishing another child.

I. Staff shall follow the center's policy on acceptable and unacceptable discipline methods.

J. Behavior problems of children of preschool age and younger shall be dealt with promptly.

§ 6.13. Staff and supervision of swimming and wading activities.

A. The staff-child ratios required by subdivisions 1 through 4 of § 5-2 shall be maintained while children are participating in swimming or wading activities. The designated water safety instructor or senior lifesaver shall not be counted in the staff-to-children ratios.

B. If a pool, lake, or other swimming area has a water depth of more than two feet, a water safety instructor or senior life saver holding a current certificate shall be on duty supervising the children participating in swimming or wading activities at all times when one or more children are in the water. The certification shall be obtained from an organization such as, but not limited to, the American Red Cross, the YMCA, or the Boy Scouts.

C. A minimum of two staff members of the center shall be on duty supervising the children during swimming or wading activities when one or more children are in the water.

§ 6.14. Pools and equipment.

A. When permanent swimming or wading pools are located on the premises of the center, the following shall apply:

1. The manufacturer's specifications for operating the pool shall be followed as well as any local ordinance and any Department of Health requirements for swimming pools;

2. All pools constructed, renovated, or remodeled after April 1, 1986, shall have a statement in writing of their inspection and approval from the local building official when such appraisal is required;

3. Outdoor swimming pools shall be enclosed by safety fences and gates which shall be kept locked when the pool is not in use;

4. Entrances to swimming pools shall be locked when the pool is not in use; and

5. A whistle or other audible signaling device, a buoy or a lemon line, a reach pole, and a backboard shall be available at the swimming or wading site.

B. If children are allowed to swim in a lake or other place other than a pool, safe swimming areas shall be clearly marked.

C. All piers, floats, and platforms shall be in good repair and where used for diving, the minimum water depth shall be indicated on the deck or planking.

D. If children are allowed to swim at a lake or other body of water larger than a pool, there shall be a rescue boat available at all times which is equipped with a reach

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pole and a lemon line or buoy.

E. If portable wading pools are used, they shall be emptied of dirty water and filled with clean water for each day's use and more frequently as necessary.

§ 6.15. Swimming and wading emergency procedures and safety rules.

A. The center shall have emergency procedures and written safety rules for swimming or wading that are:

1. Posted in the swimming area when the pool is located on the premises of the center;
2. Given to staff involved in swimming or wading activities;
3. Given to parents of children participating in swimming or wading activities; and
4. Explained to children participating in swimming or wading activities.

B. Staff shall have a system for accounting for all children in the water.

C. Each child's swimming skills shall be determined before the child is allowed in water above the child's shoulder height.

D. Outdoor swimming activities shall occur only during daylight hours unless underwater and deck lighting is provided.

E. Children who are not toilet trained shall not use portable wading pools.

## PART VII. SPECIAL CARE PROVISIONS AND EMERGENCIES.

§ 7.1. Special care.

A. If a child arrives at the center with the signs or symptoms listed in subsection C of this section, the child shall not be allowed to attend for that day.

B. Staff with training as required in § 3.13 shall observe daily each child for signs and symptoms of illness.

C. Unless otherwise instructed by the child's health care provider, that child shall be excluded if:

1. He has a temperature over 100°F, or
2. He has a communicable disease as delineated in the current Communicable Disease Chart recommendations for the exclusion of sick children.

D. If a child needs to be excluded according to subsection C of this section, the following shall apply:

1. Arrangements shall be made for the child to leave the center as soon as possible after the signs or symptoms are noticed; and

2. The child shall remain in the designated quiet area until leaving the center.

E. When a child at the center has been exposed to a reportable communicable disease, the parent shall be informed.

F. Children's hands shall be washed with soap and water before eating meals or snacks; after toileting; and after any contact with body fluids.

G. Staff shall wash their hands with soap or germicidal cleansing agent and water after helping a child with toileting; after the staff member uses the toilet; after any contact with body fluids; and before feeding or helping children with feeding.

H. When a child's clothing or diaper becomes wet or soiled, it shall be changed immediately.

§ 7.2. Children not toilet trained.

A. The child's soiled area shall be thoroughly cleaned with a disposable wipe during each diapering.

B. Staff shall wash their hands with soap or germicidal cleansing agent and water after each diaper change.

C. Disposable diapers shall be used for children in diapers unless the child's skin reacts adversely to disposable diapers. If cloth diapers are used, there shall be separate step-on diaper pails for the cloth and disposable diapers.

D. Toilet chairs shall be emptied promptly and sanitized after each use.

E. Surfaces for changing diapers shall be used only for changing diapers or cleaning children.

F. Diapers shall be changed on a nonabsorbent surface which shall be washed with soap and warm water or a germicidal cleansing agent after each use.

G. Tables used for children's activities or meals shall not be used for changing diapers.

§ 7.3. Prescription and nonprescription medication.

Prescription and nonprescription medication shall be given to a child according to the division's written policy and the center's written medication policies and only with written authorization from the parent.

§ 7.4. Medication policies.

A. The center's medication policies shall address

methods for administering medication and shall include:

1. Any general restrictions of the center;
2. Duration of the parent's authorization for medication, provided that it shall expire or be renewed after 10 work days. Long-term prescription drug use may be excepted if a form such as the one in Appendix VII is completed and on file; and
3. Methods to prevent use of outdated medication.

B. The medication authorization shall be available to staff during the entire time it is effective.

C. All medication shall be labeled with the child's name, the name of the medication, the dosage amount, and the times to be given.

D. All medication shall be in the original container with the prescription label or direction label attached.

E. When needed, medication shall be refrigerated. When medication is stored in a refrigerator used for food, the medications shall be stored together in a container or in a clearly defined area away from food.

F. All medication, including refrigerated medication and staff's personal medication, shall be kept in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to the children.

G. Centers shall keep a log of medication given children which shall include the following:

1. Child to whom medication was administered;
2. Amount and type of medication administered to the child;
3. The day and time the medication was administered to the child; and
4. Staff member administering the medication.

H. Medication shall be returned to the parent as soon as the medication is no longer being administered.

#### § 7.5. First aid provisions.

A. There shall be at least one staff member on the premises during the center's hours of operation and also one person on all field trips who is trained in first aid and CPR. This person shall be available to children and meet one of the following qualifications for first aid training:

1. Has a current first aid and CPR certificate by the American Red Cross;

2. Has a current first aid certificate by the National Safety Council;

3. Has successfully completed, within the past three years, a first aid course equivalent to the curriculum which has been approved by the State Board of Health;

4. Be a R.N. or L.P.N. with a current license from the Board of Nursing.

B. A first aid kit shall be on each floor of each building used by children and on all field trips.

C. The required first aid kits shall include, at a minimum, seissors, tweezers, gauze pads, adhesive tape, band-aids in assorted types, an antiseptic cleansing solution, an antibacterial ointment, thermometer, two or more triangular bandages, disposable gloves, and the first aid instructional manual.

D. Each first aid kit shall be stored so that it is not available to children but is easily available to staff.

#### § 7.6. Emergency supplies.

The following emergency supplies shall be required:

1. Syrup of ipecac or activated charcoal preparation (to be used only upon the advice of the physician or the Poison Control Center);
2. Chemical cooling agents, zip-lock bags, and sponges readily available for icing down contusions, sprains, and breaks;
3. A working, battery-operated flashlight on each floor of each building of the facility that is used by children; and
4. One working, battery-operated radio in each building of the facility used by children and any camp location without a building.

#### § 7.7. Procedures for emergencies.

A. The center shall have an emergency evacuation plan that addresses staff responsibility with respect to:

1. Sounding of fire alarms and notification of local authorities;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, and checking to ensure complete evacuation of the buildings;
3. Fire containment procedures, e.g., closing of fire doors or other barriers; and
4. Other special procedures developed with local



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authorities:

B. Emergency evacuation procedures shall be posted in a location conspicuous to staff and children on each floor of each building of the center.

C. The center shall implement these emergency evacuation procedures through monthly practice drills and shall maintain a log of the dates of the monthly drills for one year. For centers offering multiple shifts, the evacuation procedures shall be divided evenly among the various shifts.

D. A generic emergency number such as 911 shall be posted in a conspicuous place near each telephone. If a generic number is not available, the following numbers shall be posted near each phone:

1. A physician or hospital;
2. An ambulance or rescue squad service;
3. The local fire department; and
4. The local police department.

E. The number of a regional poison control center shall be posted in a conspicuous place near each phone.

F. The center shall develop a plan for action in case of a missing or injured child which shall address:

1. Immediate notification of emergency services;
2. Stabilization of injured child; and
3. Transportation of injured child if necessary.

G. If an ambulance service is not readily available within 10 to 15 minutes, other transportation shall be available at all times in case of emergency.

## § 7.8. Parental notification in emergencies.

The center or other appropriate official shall notify the parent immediately if a child is lost, experiences a serious accident, needs emergency medical care, or dies. The center shall notify the parent at the end of the day of any known minor accidents or injuries. Examples of a serious accident might include unconsciousness; broken bones; deep cut requiring stitches; concussion; foreign object lodged in eye, nose, ear, or other body orifice. Examples of a minor accident might include a small scratch, cut or scrape; minor bruise or discoloration of the skin.

## § 7.9. Emergency log required.

The center shall maintain a written log of children's injuries in which entries are made the day of occurrence. The log shall include the following:

1. Date and time of injury;
2. Name of injured child;
3. Type of injury;
4. Circumstances of the injury;
5. Names of staff present during the injury;
6. Treatment; and
7. Method of notifying parents.

## PART VIII. SPECIAL SERVICES, NUTRITION, TRANSPORTATION.

### § 8.1. Snacks and meals.

A. Centers shall serve appropriate snacks or meals, or both, based on the hours of operation and time of the day. Where the federal and state statutes and regulations exceed these requirements, those shall take precedence.

B. The center shall ensure that children arriving from a half-day morning kindergarten program who have not yet eaten lunch receive a lunch.

C. There shall be at least one and one-half hours between each meal and snack but no more than three hours between meals and snacks.

D. Drinking water or other beverage not containing caffeine shall be offered at regular intervals to nonverbal children.

E. In environments of 80°F or above, constant attention shall be given to the fluid needs of all children. Children in such environments shall be encouraged to drink fluids.

F. Centers serving children of preschool age or younger shall provide appropriate meals for these children as provided in these standards. When food is provided by the center, the following shall apply:

1. Centers providing care to the same children more than four hours a day shall comply with the nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (USDA) or the meal patterns in Appendix VIII.
2. Centers offering both meals and snacks shall serve a variety of nutritious foods and shall serve at least three sources of vitamin A and at least three sources of vitamin C on various days each week. Appendix IX lists sources of vitamin A and vitamin C.
3. A menu listing all foods to be served for all meals and snacks during the current one-week period shall

be:

- a. Dated;
- b. Posted in a location conspicuous to parents or given to parents;
- c. Indicate any substituted food; and
- d. Kept on file for six weeks at the center.

4. Powdered milk shall be not be used except for cooking.

5. Programs are not required to provide meals for children of preschool age or younger if the children attend four or fewer hours per day. Programs in operation prior to the implementation of these regulations and newly subject to approval may have until July 1, 1996, to provide meals.

G. When food is brought from home, the following shall apply:

1. The food shall not be subject to rapid deterioration or spoilage;
2. The center shall give parents the USDA requirements and a list of suggested nonperishable food. Appendix IX has the requirements of USDA.
3. The food shall be clearly labeled in a way that identifies the owner;
4. The center shall have extra food or shall have a plan available to obtain food to serve to children so they can have an appropriate snack or meal if they forget to bring food from home, bring an inadequate meal or snack, or bring perishable food; and
5. All unused portions of food shall be discarded and not served again.

H. If a catering service is used, it shall be approved by the local health department.

I. Food during cookouts:

1. All food shall be prepared in a clean and sanitary manner.
2. Unused, perishable food shall be discarded and not served again.

J. Children of preschool age and younger shall be encouraged to feed themselves.

K. During meal and snack times with preschoolers and toddlers, staff shall sit with these children when not serving food to them.

L. Foods easily causing choking, such as but not limited to hard candy, popcorn, raisins, seeds, nuts, whole hot dogs, hot dogs sliced into rounds, and uncut grapes, shall not be served to children three years of age or younger.

§ 8.2. Provisions for infants.

A. High chairs, infant carrier seats, or feeding tables shall be used for children under 12 months who are not held while being fed.

B. The record of each child on formula shall contain:

1. The brand of formula; and
2. The child's feeding schedule.

C. Infants shall be fed on demand or in accordance with parental instructions.

D. Prepared infant formula shall be refrigerated and clearly labeled in a way that identifies the child. See Appendix X for recommendations about the safe use of microwaves to heat infant formula.

E. Bottle fed infants who cannot hold their own bottles shall be picked up and held when fed. Bottles shall not be propped.

F. No child shall be allowed to drink or eat while walking around.

G. Formula, bottled breast milk, and prepared baby food not consumed by an infant may be used by that same infant later in the same day, if dated and stored in the refrigerator; otherwise, it shall be discarded or returned to the parent at the end of the day.

H. A one-day's emergency supply of disposable bottles, nipples, and commercial formulas appropriate for the children in care shall be maintained at the facility.

I. Mothers shall be allowed to breast-feed their infants at the facility.

J. Unless written instructions from a physician indicate differently, staff shall feed semisolid food with a spoon.

K. Children using infant seats or high chairs shall be carefully supervised during snacks or meals. When a child is placed in an infant seat or high chair the protective belt shall be fastened securely.

§ 8.3. Provisions for transportation.

A. If the center transports children to the site of the center, the center shall assume responsibility for the child between the place where the child boards the vehicle and the center site, while at the center and on any center field trips, and from the time the child leaves the center site until the child is delivered to a designated location or

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to a responsible person designated by his parent.

B. Any vehicle used by the center for the transportation of children shall meet the following requirements:

1. The vehicle shall be enclosed and provided with door locks;
2. The vehicle's seats shall be attached to the floor;
3. The vehicle shall be insured with at least the minimum limits set by the Virginia state statutes; and
4. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children.

C. The center shall ensure that during transportation of children:

1. Virginia state statutes about safety belts and child restraints are followed;
2. The children remain seated and each child's arms, legs, and head remain inside the vehicle;
3. Doors are closed properly and locked;
4. At least one staff member or the driver always remain in the vehicle when children are present;
5. The telephone numbers for obtaining emergency help as stated in § 7.7 are in the vehicle and available to staff;
6. The name, address, and phone number of the center and an additional emergency contact number is in the vehicle and available to staff; and
7. A list of the names of the children being transported is kept in the vehicle.

D. When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the vehicle or in a protected parking area or driveway.

E. When necessary to cross streets, children shall cross streets at corners or crosswalks or other designated safe crossing point if no corner or crosswalk is available.

## § 8.4. Field trips.

A. The staff-to-children ratios of subdivisions 1 through 4 of § 5.2 shall be followed on all field trips but not necessarily in each vehicle. The staff-to-children ratios may not be followed during transportation of children to and from the center. Montessori preschool programs may meet the alternative requirements in the Montessori module.

B. At least one staff member on field trips shall be trained in first aid according to subdivisions A 1 through A 4 of § 7.5 and shall be instructed on procedures to follow if there is a vehicle break down.

C. A first aid kit with the supplies mentioned in § 7.5 C, syrup of ipecac or activated charcoal preparation, and chemical cooling agents for icing down contusions, sprains, and breaks shall be available to staff on field trips.

D. The center shall make provisions for providing children on field trips with adequate food and water.

E. If perishable food is taken on field trips, the food shall be stored in insulated containers with ice packs to keep the food cold.

F. Before leaving on a field trip, a schedule of the trip's events and locations shall be posted and visible at the center site.

G. There shall be an established plan of communication between staff at the center site and staff who are away from the center site transporting children or on a field trip.

H. The center shall develop and implement procedures to assure that all children return to the facility after a field trip.

I. Staff shall follow the center's transportation safety policy.

J. Parental permission for transportation and field trips shall be secured at least 24 hours before the scheduled activity. If a blanket permission is used instead of a separate written permission, the following shall apply:

1. Parents shall be notified of the field trip; and
2. Parents shall be given the opportunity to withdraw their children from the field trip.

## § 8.5. Animals.

A. Animals that are kept on the premises of the center shall be vaccinated if applicable against diseases which present a hazard to the health of children.

B. Animals which are, or are suspected of being, ill or infested with external lice, fleas and ticks or internal worms shall be removed from contact with children.

C. If a child is bitten by an animal, an attempt shall be made to confine the animal for observation or laboratory analysis for evidence of rabies. The site of the bite shall be washed with soap and water immediately, and the child's physician or local health department shall be contacted as soon as possible for medical advice. The center shall report the animal bite incident to the local health department.

## § 8.6. Resting.

A. For evening care, beds with mattresses or cots with at least one inch of dense padding shall be used by children who sleep longer than two hours and are not required to sleep in cribs.

B. For overnight care, beds with mattresses or cots with at least two inches of dense padding shall be used by children who are not required to sleep in cribs.

C. For overnight care which occurs for a child on a weekly or more frequent basis, beds with mattresses shall be used.

D. In addition to § 6.11, bedding appropriate to the temperature and other conditions of the rest area shall be provided.

## § 8.7. Overnight care.

A. In centers providing overnight care, an operational tub or shower with heated and cold water shall be provided.

B. When bath towels are used, they shall be assigned for individual use.

C. Activities for children in evening or overnight care shall include, as time allows, age appropriate activities as described in §§ 6.5 D, 6.6 A through E, and 6.7 A through F.

Quiet activities and experiences shall be available immediately before bedtime.

D. For children receiving evening and overnight care, the provider shall offer a regularly scheduled evening meal and snack.

## PART IX. MONTESSORI MODULE.

### § 9.1. Montessori programs defined.

A. Montessori preschool programs are educational programs wherein the teacher training and subsequent pedagogy are approved by either American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori, thus verifying that the school meets the Montessori standards as outlined in the Montessori module.

B. Meeting these Montessori standards shall afford the Montessori preschool programs a waiver from specific minimum standards that conflict with the Montessori educational philosophy as referenced in the regulations. Only preschools which meet the Montessori criteria as outlined in the module are eligible to comply with the modified licensing standards contained in the Montessori module.

C. Programs operated by a Montessori preschool which go outside the scope of the regular Montessori preschool classes shall comply with the minimum standards for licensed child day centers without the benefit of the Montessori module for the extended care portion of the day. Programs going beyond four hours per day for children ages 2 1/2 through four and beyond 6 1/2 hours per day for children five through six years of age, exclusive of the allowable two hour additional enrichment program once a week, shall comply with the minimum standards for licensed child day centers without the benefit of the Montessori module for the extended care portion of the day. Regular Montessori preschool classes within an all day program shall meet the minimum standards for licensed child day centers with the option of meeting the Montessori module to obtain waivers from specified standards that conflict with the Montessori philosophy for the regular day portion of their program only.

### § 9.2. Administrators.

The administrator of a Montessori preschool program shall be at least 21 years of age and shall have or meet one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;

2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;

3. The teacher qualification standards of American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori; or

4. Five years of Montessori programmatic experience if the program director meets one of the qualifications of subdivisions 1 through 3 of this section.

### § 9.3. Program directors and back-up program directors.

The program director and back-up program director at a Montessori preschool program shall be at least 21 years of age and shall have or meet one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children; or

2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children; or

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3. The Montessori teacher qualification standards of American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori; or

4. Five years of Montessori programmatic experience.

## § 9.4. Teachers:

Montessori teachers at a Montessori preschool program shall:

1. Be at least 21 years of age, and
2. Hold a teaching diploma recognized by American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori for the level the teacher is teaching.

## § 9.5. Staff development:

A. In addition to first aid and orientation training required elsewhere in these regulations, employed staff who work directly with a single group of children for more than three hours daily at a Montessori preschool program shall:

1. Take advantage of formal and informal opportunities for personal and professional growth, including methodology and specific subject matter, as recognized by Montessori standards for a minimum of eight hours annually; or
2. In the event of a staff member's participation in a credit course or a seminar longer than eight hours, these hours may be prorated over a period of no more than five years at the rate of 12 hours annually.

B. Specialty staff at a Montessori preschool program providing enrichment activities to a single group of children less than three hours a week shall take advantage of opportunities for professional growth to remain current in their field of expertise.

## § 9.6. Facilities:

The facilities of a Montessori preschool program, inside and outside, shall be maintained in conditions that are safe and free of hazards, protruding points or sharp corners, splinters, protruding nails, and loose rusty parts.

## § 9.7. Materials:

The Montessori materials at a Montessori preschool program shall be maintained in an attractive, accessible, and safe manner, so as to afford the children complete and appropriate opportunity to develop individual and group skills according the Montessori curriculum standard.

## § 9.8. Restrooms:

A Montessori preschool program shall have restrooms that are easily accessible with a ratio of one toilet and one sink for every 20 children.

## § 9.9. Outdoor play areas:

A Montessori preschool program shall have a safe outdoor play area which allows for exploration of nature and provides a resilient surface in fall zones.

## § 9.10. Groupings:

Montessori preschool program shall maintain a balanced multi-age grouping, with a ratio of one staff member for every 15 children.

## § 9.11. Activities:

Teachers at a Montessori preschool program shall be, at all times during the Montessori program, responsible for the development and activities of the children in his Montessori class. In the event of the teacher's extended absence, there shall be sufficient substitute staff to comply with a ratio of one staff member for every 12 children.

## § 9.12. Other personnel requirements:

A Montessori preschool program shall have readily accessible, and in close classroom proximity, auxiliary persons sufficient to maintain a 1:10 adult-to-child ratio for 2 1/2 to four year olds or 1:15 for balanced mixed age groupings of 2 1/2 to six year olds, to be available in the event of emergency evacuation.

## § 9.13. Space provisions:

A Montessori preschool program shall offer outdoor and indoor space affording the children complete opportunity to develop individual and group skills, including large and small motor development.

## § 9.14. Operations:

In a Montessori preschool program operating between five and 6 1/2 hours per day there shall be at least one-half hour of outdoor activity per day.

## § 9.15. Instruction:

A Montessori preschool program shall abide by the pedagogy and curriculum guidelines in the Montessori module.

## § 9.16. Transportation:

During transportation of children and on all field trips, the staff-to-children ratio for a multi-age grouping of students in a Montessori preschool program shall be no more than one to 20.

## § 9.17. Hours and scope of operation:

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A. A Montessori preschool program shall operate, at a minimum, nine months a year, five days a week, allowing for holidays, teacher in-service days, and parent-teacher conferences, as deemed necessary by the preschool in accordance with Montessori standards.

B. The hours of operation for a Montessori preschool program for children, ages 2 1/2 through four years, shall be at least three hours a day, but not more than four hours a day.

C. The hours of operation for a Montessori preschool program for children five through six years of age shall be at least six hours a day but no more than 6 1/2 hours a day.

D. Enrichment programs, compatible with Montessori standards shall be acceptable when operated, in keeping with the Montessori curriculum; physical, emotional, and developmental welfare of the child; and available to the individual child not more than an additional two hours once a week.

E. Any program operated beyond these specified school hours and ages of children shall comply with the minimum standards for licensed child day centers without the benefit of the Montessori module for the extended care portion of the day. Regular Montessori preschool classes within an all day program shall meet the minimum standards for licensed child day centers with the option of meeting the Montessori module to obtain waivers from specified standards that conflict with the Montessori philosophy for the regular day portion of their program only.

## § 9.18. Montessori class structure and supervision.

A. A class shall be deemed a group of children under the direct and continuous supervision of a fully qualified Montessori teacher.

B. Teachers at a Montessori preschool program shall maintain a safe Montessori environment for the class.

C. Teachers at a Montessori preschool program shall give the appropriate, individual or group lessons and supervise the ongoing work of the children in accordance with all Montessori pedagogical standards, included herein.

D. Teachers at a Montessori preschool program shall be observant of the needs of the children in the class at all times and, accordingly, shall provide developmentally appropriate materials and class designation regardless of age.

E. Teachers at a Montessori preschool program shall be aware of the family backgrounds and individual needs and development of the children within the Montessori program.

F. Teachers at a Montessori preschool program shall

maintain appropriate and confidential communication and records with other school personnel and parents as necessary for the development of the child.

G. Children enrolled in a Montessori class at a Montessori preschool program shall demonstrate to the teacher an adequate level of development indicating a readiness for formal Montessori education.

H. Children enrolled in the Montessori class at a Montessori preschool program shall be toilet trained and demonstrate a level of large and small motor development acceptable to working in a positive manner within the Montessori classroom environment.

I. Children enrolled in the Montessori class at a Montessori preschool program shall demonstrate adequate communication skills and the ability to function with appropriate independence outside the home or away from a day-care provider.

J. Children are initially accepted into a Montessori program at a Montessori preschool on an observational basis, and shall be given adequate, but limited, time to demonstrate individual readiness for the Montessori program.

K. A newly established Montessori class at a Montessori preschool program shall be comprised of no more than 12 to 15 children between the ages of 2 1/2 and six years and shall not increase enrollment to more than 25 children during its first year.

L. As the children and the class develop at a Montessori preschool program, the class structure may gradually build to the recommended Montessori size of 25 to 30 children between the ages of 2 1/2 and six years of age.

M. The class and the children at a Montessori preschool program shall function at all times during the Montessori program according to the Montessori standards as outlined herein.

## § 9.19. Classroom materials.

A. Classrooms at a Montessori preschool program shall contain the necessary and appropriately approved Montessori materials for each age level in the class. These Montessori materials may be complemented by appropriate, teacher-approved materials, but shall not displace or detract from the implementation of the Montessori materials.

B. The children at a Montessori preschool program shall have continuous access to these materials as deemed appropriate by the Montessori teacher.

C. These materials at a Montessori preschool program shall be organized in the classroom and used by the children in work areas that afford safe and ample working space under the direction of the Montessori teacher.

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*D. Use of Montessori materials in a Montessori preschool program shall be presented by the Montessori teacher in accordance with the Montessori curriculum standards as included herein.*

§ 9.20: Curriculum guidelines.

*A. Curriculum guidelines, including appropriate materials for children from two years to six years, as stated below shall be followed in a Montessori preschool program.*

*B. These requirements are based on guidelines used by American Montessori Society, American Montessori Internationale, National Council of Montessori Education, and Saint Nicholas Montessori teacher training.*

## PRACTICAL LIFE

*Preliminary Exercises: Spooning, Pouring rice, Pouring water*

*Purpose: To teach the child muscular control, care, exactness, how to pour.*

*Indirect preparation for writing.*

*Age: 2 1/2 - 3 1/2*

*Preliminary Exercises: Napkin folding*

*Purpose: To teach muscular control, exactness.*

*Indirect preparation for geometry.*

*Age: 2 1/2 - 4*

*Care of the Environment: Table washing, Dusting, Polishing wood, Polishing metal, Arranging flowers, Sweeping*

*Purpose: To teach the child how to care for his environment so that he might adapt to his environment and gain independence.*

*To teach control of action, acquisition of movement, order and sequence, conscious awareness, development of large and small muscles, left to right movement, increased concentration through repetition.*

*Preparation for life and future learning.*

*Age: 2 1/2 - 4 and up*

*Care of the Person: Dressing frames, Polishing shoes, Washing hands*

*Purpose: To teach the child to care for himself, to take pride in his person, to gain independence and self-worth.*

*Age: 2 1/2 - 4 and up*

*Grace and Courtesy*

*How to interrupt, listen, make way, pass*

*How to greet, introduce oneself, offer a chair, take a cookie, serve others, carry scissors, etc.*

*Purpose: To help the child develop understanding of rules of grace and courtesy, to adapt and be accepted into a social group.*

*Age: 2 1/2 and up*

## Movement

*How to walk, move around the room, move furniture, stop when hear bell, walk on line, carry a chair, sit properly, carry mats and materials, roll a mat, where to place mat, open and close a door, play silence game, respect silence, etc.*

*Purpose: To learn control of movement, self awareness of ones self, purposeful activity order, respect for persons and property, attention to details and environment.*

*Age: 2 1/2 and up*

## SENSORIAL

*Purpose: Aid the child's processes of classification.*

### Visual Discrimination

*Pink tower, Broad stair, Long stair, Solid cylinders, Color tablets, Geometric cabinet, Biology cabinet, Binomial & trinomial cube, Constructive triangles, Superimposed geometric figures, Knobless cylinders, Solid geometric shapes, Mystery bag, Progressive exercises*

*Purpose: To teach visual discrimination of dimension (length, width, height).*

*Indirect preparation for number work, algebra and proof of formulas, geometry, art, biology.*

*Indirect preparation for writing.*

*Development of vocabulary.*

*Age: Progressive from 2 1/2 to 4 1/4 +*

### Auditory discrimination

*Sound boxes, Bells, Listening exercises*

*Purpose: Training of auditory sense, discrimination of sounds, development of listening skills, discrimination of tones.*

*Age: 2 1/2 and up*

### Tactile Sense

*Rough and smooth boards, Rough and smooth tablets, Fabrics*

*Purpose: Development of tactile sense, control of muscular action and lightness touch.*

*Indirect preparation for writing.*

*Age: 2 1/2 - 3 1/2*

*Baric, Thermic, Olfactory Senses*

*Baric tablet, Thermic bottles, Scent boxes and bottles*

*Purpose: Further develop senses. Help one to be aware of one's environment.*

*Age: 2 1/2 and 3 1/2*

## LANGUAGE

*Oral Vocabulary*

*Enrichment of vocabulary, Language training*

*Purpose: Through giving the names of objects in the environment, the sensorial materials and their relations, picture card materials, stories, poems, etc. help the child develop a fluent vocabulary so that he might express himself both orally and in written form.*

*Preparation for reading, writing, self expression, research in cultural areas.*

*Age: 0 and up*

*Writing*

*Sand paper letters sound game, Moveable alphabet, Metal insets, Perfection of writing*

*Purpose: To make the child aware of the sounds in words and to unite these sounds by muscular and visual memory.*

*To help him explore and analyze his vocabulary.*

*To acquire mastery of the hand in wielding a writing instrument.*

*Age: Progressive 2 1/2 - 4*

*Reading*

*Phonetic object game, Phonograms, Puzzle/Secret words*

*Purpose: To give facility to phonetic reading.*

*To give the keys to further reading and exploration of language.*

*Age: 4 1/2 - 5*

*Reading Classification*

*Social cards, cultural cards, Definition booklets, Labels for environment, Etc.*

*Purpose: To further the child's reading and knowledge by introducing him to the written symbols for words he knows.*

*To enable him to classify his knowledge.*

*Age: 4 1/2 on*

*Function of Words*

*Article, Adjective, Logical adjective game, Conjunction, Preposition, Verb, Adverb, Commands*

*Purpose: To make the child aware of the individual function of words in his reading and writing.*

*To give him further keys to the perfection of reading, writing and self expression.*

*Age: 4 1/2 - 5*

*Reading Analysis*

*Simple sentence (first stage, second stage and extensions, attributes and appositives)*

*Purpose: To give the child the keys to total reading, full awareness of the intent feeling and style of the writer.*

*Help the child in his own reading and writing.*

*Age: 5 1/2 and up*

*Word Study*

*Purpose: To allow the child to explore words on a more advanced level.*

*Punctuation*

*Purpose: To help the child communicate more effectively in his written work.*

*Reading & writing of Music*

*Green boards with notes, Green manuscript board, White music charts, Summary exercises, Learning songs, Musical instruments, etc.*

*Purpose: To recognize and create the language of musical composition through notation and lyrics.*

*Age: 4 1/2 and up*

**MATHEMATICS**



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Numbers (1 to 10)

Number rods, Sandpaper numbers, Number rods and cards, Spindle boxes, Cards and counters, Memory game

Purpose: To give the keys to the world of written numbers.

To understand that each number is an entity unto itself.

To teach the quantity, the symbol of sequence of numbers.

To teach the concept of zero.

Preparation for additional math.

Age: 4

Decimal system (Golden Bead Exercises)

Introduction of beads, Introduction of cards, Cards and beads together, Processes of addition, subtraction, multiplication, division

Purpose: To teach the concepts of the decimal system through 1000s.

To give the child the overall picture of the workings of the decimal system and all its processes.

Age: 4 1/2 to 5 1/2 +

Further Exercises in Math

Linear and skip counting, Teen board, Tens board, Stamp game, Dot game, Snake game, Addition strip board, Negative snake game, Negative strip board, Bead bar layouts, Multiplication bead board, Division unit board, Charts, Small bead frame, Hierarchical materials, Large bead frame, Racks and tubes, Fractions

Purpose: To give the child opportunity for further exploration with numbers, the opportunity for repetition and perfection in executing the processes in math.

The opportunity to commit to memory the math facts.

Steps to total abstraction.

Age: 5 - 6 1/2 and up

GEOGRAPHY

Sandpaper globe, Land and water forms, Painted globe, Puzzle maps, Pictures, Definition cards, Stories, Simple reference books

Purpose: To introduce the child, to the concepts of physical political, economic geography, interdependence of man and related language.

Age: 2 1/2 +

HISTORY

Artifacts, Pictures, Definition cards, Simple reference books, Stories

Purpose: To introduce the child to world cultures, physical and spiritual needs of man throughout history, famous persons, holidays, etc.

Age: 2 1/2 +

MUSIC

Songs, Records, tapes, Rhythm and movement, Tone bells, Tone charts, Composers/famous music

Purpose: To give the child a variety of musical experiences, including pitch, tone, rhythm, movement, auditory comparisons, related symbols and language.

Age: 2 1/2 +

CREATIVITY

Appropriate media, Pictures, Stories, Reference books, Practical life, Sensorial lessons

Purpose: To introduce the child to concepts of color, tone, light, form, history and art appreciation; and, afford the child appropriate opportunities for self expression.

Age: 3 +

BOTANY/BIOLOGY

Botany leaf cabinet, Plants, Pictures/plants and animals, Definition cards, Classifications materials, Stories, Simple reference books, Opportunities to explore nature

Purpose: To introduce the child to nature, the vast variety of plants and animals, the characteristics and functions; simple classification of the plant and animal kingdom; interdependence and ecology.

Age: 2 1/2 +

\* All work in the areas of science, history, culture, music, and creativity are interrelated and presented to give the child an age appropriate understanding of these areas, factual information, the tools and ability to work with the materials, and the opportunity to share this knowledge.

Important prerequisites are practical life lessons and skills, sensorial and related language lessons and skills, and an understanding of reality and factual concepts.

§ 1. Definitions and substitutions.

A. The terms used in these regulations, except as otherwise defined herein, shall be in accordance with the definitions contained in § 63.1-195 et seq. of the Code of Virginia relating to the regulation of child day centers and Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger (VR 175-08-01).

B. The following additional terms shall be used in administering the statute and regulations as described in subsection A of this section and substitutes for certain other terms in regulations of the Child Day-Care Council where applicable:

"Board" means the Virginia Board of Education and substitutes for Child Day Care Council.

"Department" means the Virginia Department of Education and substitutes for Department of Social Services.

"Superintendent" means the Superintendent of Public Instruction and substitutes for Commissioner of the Virginia Department of Social Services or commissioner.

## § 2. Exemptions and exceptions.

A. Instructional programs offered by public schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act (IDEA), vocational child care programs, and extracurricular activities that are focused on single interests such as, but not limited to, music, drama, art, or foreign languages are exempt from the requirements of these regulations.

B. Other exceptions to the requirements for accreditation may be made by the superintendent for cause which may include, but not be limited to, conflicts with state or federal statutes, or other board or federal regulations. The superintendent shall report to the board at least annually on exceptions made.

## § 3. Administration.

A. Child day centers operated by local school boards shall be accredited by the board when the center meets or exceeds requirements established by the Child Day-Care Council in Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger (VR 175-08-01).

B. Regulation of programs operated in accordance with standards described in subsection A of this section shall be the responsibility of the board. The Department of Education shall be responsible for the administration of the regulations.

## Appendix IV

### PRESCHOOL ACTIVITIES

The following activities and experiences for preschool children shall include but not be limited to:

1. Art Activities - For example: painting and drawing; use of scissors and paper; use of paste, clay, fingerpaints; use of collage materials.

2. Rhythm and Music - For example: listening to, dancing to, singing along with records/tapes; use of instruments such as rattles, bells, shakers, sandpaper blocks, triangles, drums, horns; singing and reciting songs; rhymes, finger plays.

3. Language and Communication Experiences - For example: book and story reading; story-telling; viewing film strips; listening to recorded stories; group discussion; show and tell; use of flannel boards; interaction with peers and adults.

4. Sensory Experiences and Exploration of the Environment - For example: discussion and observation of plants, leaves, weather; observation of and caring for animal and marine life; water play; nature walks; use of toys that stimulate the sense of touch, sight, taste, hearing, and smell; use and observation of wood, soil, sand; field trips into the community; visitors to the classroom.

5. Construction - For example: building with blocks, interlocking logs, wooden dowels, wheels with multiple holes; play with nesting and stacking toys, pyramid rings/squares; woodworking.

6. Social Living - For example: play with child-size household items; imaginative play through the use of dress-up clothes; play with dolls and doll houses, block people, wooden zoo and farm animals; use of puppets and play store items.

7. Water and Sand Play - For example: play with water, sawdust, rice, beans, pebbles, soil; use of pails and shovels, measuring cups and spoons, funnels, pouring devices; availability of hose for siphoning; sponges.

8. Fine Motor Activities - For example: use of puzzles, manipulatives, beads, peg boards, mosaics, parquetry boards, spools; play with small balls, lacing boards, sorting toys; building with dominoes; modeling with clay; use of an abacus; use of interlocking blocks, cubes, geometric shapes, rings.

9. Gross Motor Activities - For example: climbing; balancing on steps, balance board; playing hopscotch; jumping rope; riding on or rolling transportation toys; throwing bean bags, rubber and nontoxic balls; play with punching bags; digging; reaching.

Note: Many activities provide the opportunity to combine several of the interest areas above. For example, a center may make a collage of fall leaves

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combining 1 and 4. Many of the manipulative and fine motor activities could be the same, etc.

## Appendix V

### TODDLER ACTIVITIES

The following activities and experiences for toddlers shall include but not be limited to:

1. *Art Activities* - For example: painting and drawing; use of large crayons, paint brushes and paper; use of paste, play dough; fingerpaints; use of collage materials.

2. *Rhythm and Music* - For example: listening to, dancing to, singing along with records/tapes; use of instruments such as rattles, bells, shakers, sandpaper blocks, triangles, drums, horns; singing and reciting simple songs, rhymes, finger plays.

3. *Language and Communication Experiences* - For example: book and story reading; story-telling; listening to recorded stories; use of flannel boards; use of pictures such as children, families, or familiar objects.

4. *Sensory Experiences and Exploration of the Environment* - For example: observation of and caring for animal and marine life; nature walks; use of toys that stimulate the sense of touch, sight, taste, hearing, and smell such as small jars, sound shakers, feely boards; use and observation of wood, soil, sand.

5. *Construction* - For example: building with small unit blocks, lightweight blocks, large interlocking blocks.

6. *Social Living* - For example: use of dolls and play animals; play with dress up clothes, child size household items, puppets, mirrors, phones; play with block people, wooden zoo and farm animals.

7. *Water and Sand Play* - For example: play with water, sand, and other nonfood material with equipment for scooping and digging such as pails, shovels, cups, spoons, and funnels; availability of hose for siphoning; sponges.

8. *Fine Motor Activities* - For example: use of large peg boards, balls, stacking toys, shape sorter, stacking cubes, nesting/stacking toys, huge pegboards, simple puzzles.

9. *Gross Motor Activities* - For example: climbing, pushing and pulling toys; play on low climbing structures; play with simple riding toys, wagons, balls, bean bags.

Note: Many activities provide the opportunity to combine several of the interest areas above. For example, a center may make a collage of fall leaves

combining 1 and 4. Many of the manipulative and fine motor activities could be the same, etc. ]

VAR. Doc. No. R95-293; Filed February 14, 1995, 12:27 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.

**Statutory Authority:** §§ 22.1-19 and 63.1-196.001 A 7 of the Code of Virginia.

**Effective Date:** April 5, 1995.

#### Summary:

Provisions of the Code of Virginia regarding the licensure of child day programs by the Department of Social Services have been amended to require Board of Education accreditation of day care programs for school-age children run by the public schools (e.g., before- and after-school programs and camps). Specifically, the legislation requires the Board of Education to incorporate into the Regulations Establishing Standards for Accrediting Public Schools in Virginia, regulations which meet or exceed those for licensing day care centers issued by the Child Day-Care Council. Those regulations have been adopted and became effective November 1, 1993. These regulations, upon adoption, will be incorporated into the existing accrediting standards.

The regulations are minimal and incorporate by reference the Child Day-Care Council regulation VR 175-09-01, Minimum Standards for Licensed Child Day Centers Serving School Age Children.

Further, the regulations authorize the Superintendent of Public Instruction to make exceptions to the requirements for cause and report such exceptions to the Board of Education at least annually.

#### Preamble:

The Code of Virginia designates the Department of Social Services as the agency responsible for the regulation of residential and day programs for children including child day centers. Further, the Code of Virginia requires the Child Day-Care Council to prescribe standards for those centers; however, the law requires the Board of Education to accredit programs or centers operated by local school divisions as a part of its regular school accreditation process provided those programs meet or exceed the requirements prescribed by the Child Day-Care Council.

These regulations, along with applicable sections of the existing Regulations Governing the Accreditation of

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Public Schools in Virginia adopted by the board, serve as the basis for the accreditation of all nonmandated programs operated by public schools intended to serve school age children enrolled in such programs which are offered in addition to the regular instructional programs. Exceptions to specific provisions of these regulations may be made by the Superintendent of Public Instruction for cause.

Summary of Public Comment and Agency Response: A summary of public comments 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., Regulatory Coordinator, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2023. There may be a charge for copies.

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

## [ PART I DEFINITIONS, EXEMPTIONS, PURPOSE, APPLICABILITY.

### § 1.1. Definitions:

Position titles used in these standards are descriptive only and do not preclude the use of other titles in school programs.

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

"Admission" means a written or oral agreement for a child's provisional inclusion in the program.

"Adult" means any individual 18 years of age or older.

"Board" means the Virginia Board of Education.

"Camp" means a child day camp.

"Center" means a child day center program offered by a local school board or division.

"Character and reputation" means findings have established, and knowledgeable and objective people agree, that the individual (i) maintains business, professional, family, and community relationships which are characterized by honesty, fairness, and truthfulness, and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage, and people who are not knowledgeable of the individual, such as recent

acquaintances, shall not be considered objective references.

"Child" means any individual under 18 years of age.

"Child day camp" means a child day center for school age children which operates during the summer for less than four months in a 12-month period and which emphasizes outdoor activities.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

Exemptions: (§ 63.1-196.001 of the Code of Virginia):

1. A child day center that has obtained an exemption pursuant to § 63.1-196.3 of the Code of Virginia;

2. A program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to approval;

3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period;

4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed 1 1/2 hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation;

5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week;

6. Instructional programs offered by public and private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, including, but not limited to, Early Childhood Special Education

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programs and vocational child care programs and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language;

7. Education and care programs provided by public schools which are not exempt pursuant to subdivision 6 of this section shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the commissioner;

8. Early intervention programs for children eligible under Part H of the Individuals with Disabilities Education Act wherein no child attends for more than a total of six hours per week;

9. Practice or competition in organized competitive sports leagues;

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services;

11. Child-minding services which are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving services or participating in activities offered by the establishment;

12. A certified school age or nursery school program operated by a private school which is accredited by a statewide accreditation organization recognized by the State Board of Education which complies with the provisions of § 62.1-196.3:1 of the Code of Virginia. The provisions of this subdivision shall expire on July 1, 1994;

13. Prescribed therapeutic recreation programs provided for children with disabilities in programs that meet the child day center definition shall not be subject to approval under this chapter until the appropriate regulations are promulgated; or

14. By policy, a child day center that is required to be programmatically licensed by another state agency for that service.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Contract employee" means an individual who enters into an agreement to provide specialized services for a specified period of time.

"Department" means the Virginia Department of Education.

"Department's representative" means an employee or designee of the Virginia Department of Education, acting as the authorized agent of the Superintendent.

"Developmentally appropriate" means a philosophy which applies a knowledge of child development to the curriculum, the environment, adult-child interactions, and staff-parent interactions, and which recognizes the age span of the children within the group, as well as the needs of the individual child.

"Enrollment" means the actual attendance of a child as a member of the center.

"Evening care" means care provided in a center between the hours of 7 p.m. and 1 a.m., inclusively.

"Fall zone" means the area underneath and surrounding equipment that requires a resilient surface. It shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use.

"Montessori module" means a group of alternative, specific standards in the regulations allowed for all programs meeting the eligibility criteria of a Montessori school age program, as specified in the module.

"Montessori school age programs" are educational programs wherein the teacher training and subsequent pedagogy are approved by either American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori, thus verifying that the school age meets the Montessori standards as outlined in the Montessori module. Only Montessori schools which meet the Montessori criteria as outlined in the Montessori module are eligible to comply with the modified licensing standards contained in that module.

"Overnight care" means care provided in a center between the hours of 1 a.m. and 5 a.m., inclusively.

"Parent" means the biological or adoptive parent or parents or legal guardian or guardians of a child enrolled in or in the process of being admitted to a center.

"Physician" means an individual licensed to practice medicine in any of the 50 states or the District of Columbia.

"Primitive camp" means a camp where places of abode, water supply system, permanent toilet and cooking facilities are not usually provided.

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"*Programmatic experience in the group care of children*" means time spent working directly with children in a group, in a child care situation which is located away from the child's home (e.g., Sunday school, vacation Bible school, scouts, etc.).

"*School age*" means children from the age of eligibility to attend public school and older, age five or older by September 30.

"*Specialty camps*" means those centers which have an educational or recreational focus on one subject which may include, but is not limited to, dance, drama, music, sports.

"*Sponsor*" means an individual, partnership, association, public agency, corporation or other legal entity in whom the ultimate authority and legal responsibility is vested for the administration and operation of a center subject to approval.

"*Staff*" means administrative, activity, service, and volunteer personnel who work in the facility.

"*Staff positions*" are defined as follows:

"*Administrator*" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator may be responsible for supervising the program director or, if appropriately qualified, may concurrently serve as the program director.

"*Aide*" means the individual designated to be responsible for helping the program leader or child care supervisor in supervising children and in implementing the activities and services for children.

"*Program leader*" or "*child care supervisor*" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children.

"*Program director*" means the primary, on-site director or coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the supervision, orientation, training, and scheduling of staff who work directly with children, whether or not the program director personally performs these functions.

"*Volunteers*" means persons who come to the center less than once a week and are not counted toward the required number of staff.

"*Volunteer personnel*" means persons who work at the center once a week or more often or who are counted in the required ratio of staff-to-children.

§ 1.2. Responsibility of the Department of Education.

Chapter 10 (§ 62.1-195 et seq.) of Title 62.1 of the Code of Virginia describes the responsibility of the Department of Education for the regulation of residential and day programs for children, including child day centers.

§ 1.3. Responsibility of the Child Day-Care Council.

Section 62.1-202 of the Code of Virginia requires the Child Day-Care Council to prescribe standards for certain activities, services, and facilities for child day centers.

§ 1.4. Purpose of the standards.

The purpose of these minimum standards is to protect school age children who are separated from their parents during a part of the day by:

1. Ensuring that the activities, services, and facilities of centers are conducive to the well-being of children; and
2. Reducing risks in the environment.

§ 1.5. Montessori program standards.

The minimum standards in Parts I through VIII and the Montessori module in Part IX of these regulations for Montessori school age programs wanting to meet alternative standards, apply to child day centers serving school age children as defined in § 1.1 of these standards.

§ 1.6. Violations.

The department shall investigate any alleged violation of the provisions of these regulations in accordance with procedures approved by the Superintendent. Centers shall be bound by any recommendations made as a result of the investigation.

## PART II. ADMINISTRATION, POLICIES AND PROCEDURES, RECORDS.

§ 2.1. Sponsors.

Each center shall have a clearly identified sponsor which shall be identified by its legal name in accordance with state requirements. Programs offered under the egis of the board shall be sponsored by the local school board.

§ 2.2. Control.

The names and addresses of individuals who hold primary financial control and officers of the sponsor or governing body shall be disclosed fully to the Department of Education. The local school board shall assume primary financial responsibility for programs operated under these regulations.

§ 2.3. Character of sponsors.

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The sponsor, represented by the individual proprietor, partners, officers, and managers who has delegated authority to act for a sponsor, shall be of good character and reputation and shall not have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

## § 2.4. Inspection of facilities.

The sponsor shall afford the Superintendent or his agents the right at all reasonable times to inspect facilities, all of his financial books and records, and to interview his agents, employees, and any child or other person within his custody or control.

## § 2.5. Posting of certificate.

The certificate of accreditation shall be posted in a place conspicuous to the public, near the main entrance of the building or the main office.

## § 2.6. Responsibilities of the school division.

The operational responsibilities of the licensee shall include, but not be limited to, the following:

1. To develop a written statement of the purpose, scope, and philosophy of the services to be provided by the center and written policies under which the center will operate;

2. To ensure that the center's activities, services, and facilities are maintained in compliance with: these minimum standards; the terms of the current license issued by the department; other relevant federal, state, and local laws and regulations including the Americans with Disabilities Act and state law regarding disabilities; and the center's own policies and procedures; and

3. To identify in writing the individuals responsible for the day-to-day operations and implementation of both these regulations and the facility's policies.

## § 2.7. Advertising prohibitions.

No center "shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made...an advertisement of any sort regarding services or anything so offered to the public, which...contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading" (§ 63.1-196 of the Code of Virginia).

## § 2.8. Liability insurance required.

The center shall maintain public liability insurance for bodily injury with a minimum limit of at least \$500,000 each occurrence and with a minimum limit of \$500,000 aggregate or have equivalent self-insurance which is in compliance with local codes. Evidence of insurance

coverage shall be made available to the department's representative upon request unless the center is self-insured.

## § 2.9. Accident or insurance plan required.

A plan of accident or school insurance shall be available to the parent. The center may designate whether the parent's participation in the plan is optional or mandatory.

## § 2.10. Annual plan for injury prevention required.

The center shall develop an annual plan for injury prevention. This plan shall be based on documentation of injuries and a review of the activities and services.

## § 2.11. Playground safety plan required.

The center shall develop a playground safety plan which shall include:

1. Provision for active supervision by staff;
2. Positioning of staff on the playground to help meet the safety needs of children; and
3. Method of maintaining resilient surface.

## § 2.12. Counting numbers of children.

If children 13 years or older receive supervision in the licensed program, they shall be counted in the number of children receiving care.

## § 2.13. Parental notification required.

Before a child's enrollment, parents shall be provided in writing the following:

1. Operating information:
  - a. The center's purpose, scope, philosophy, and any religious affiliations;
  - b. The hours and days of operation and holidays or other times closed;
  - c. The procedures for admission and registration of children;
  - d. Fees and tuition, including whether participation in the accident or school insurance is mandatory;
  - e. The phone number of the center;
  - f. The program and services provided and the ages of children accepted;
  - g. Organizational chart or other description of established lines of authority for persons responsible for center management within the organization; and

*h. Reasons and procedures for removal of children from rolls including the amount of notice required for the parent and center before removal from the program.*

## *2. Arrival and departure for children:*

*a. Policy governing a parent dropping a child off or picking up a child after closing hours and procedures if the child is not picked up;*

*b. Policy for release of children from the center only to responsible persons for whom the center has written authorization;*

*c. Procedures for protecting children from traffic and other hazards during arrival and departure and when crossing streets; and*

*d. A policy describing the acceptable level of supervision of children upon arrival to and departure from the center.*

## *3. Program and activities:*

*a. Procedures and policies about accepting and storing children's personal belongings;*

*b. Discipline policies including acceptable and unacceptable discipline measures;*

*c. Food policies;*

*d. Transportation safety policies and procedures when provided; and*

*e. Policies and procedures encouraging parental involvement.*

## *4. Health and emergencies:*

*a. Procedures for storing and giving children's medications;*

*b. Policy for reporting suspected child abuse; and*

*c. Procedures for handling emergencies.*

## *§ 2.14. Staff information required.*

*Before staff are allowed to supervise children, staff shall be provided with the information listed in § 2.13 and the following:*

*1. Procedures for caring for a child who may arrive after any scheduled start time of the center;*

*2. Procedures to confirm absence of a child from the center when the child attends more than one care or educational arrangement a day;*

*3. Procedures for identifying where attending children are at all times including field trips; and*

*4. Procedures for action in case of lost or missing children, ill or injured children, medical emergencies, and natural disasters, including but not limited to fire, flood, or other severe weather.*

## *§ 2.15. General record keeping.*

*A. All children's records and personnel records shall be treated confidentially and shall be made available to the custodial parent upon request.*

*B. Records, logs, and reports shall be kept. Records may be kept at a central location except as indicated otherwise in these standards.*

*C. All records, logs, and reports on children and staff required by these standards shall be maintained and made accessible for two years after termination of enrollment or employment unless specified otherwise.*

*D. All records shall be kept in accordance with the provisions of regulations of the board entitled "Management of the Student's Scholastic Records in the Public School of Virginia" (VR 270-01-0014).*

## *§ 2.16. Children's records.*

*Each center shall maintain and keep at the center a separate record for each child enrolled which shall contain the following information:*

*1. Name, nickname (if any), sex, and birth date of the child;*

*2. Name, home address, and home phone number of each parent who has custody;*

*3. When applicable, work phone number and place of employment of each parent who has custody;*

*4. Name and phone number of child's physician;*

*5. Name, address, and phone number of two designated people to call in an emergency if a parent cannot be reached;*

*6. Names of persons authorized to pick up the child. Appropriate legal paperwork shall be on file when the custodial parent requests the center not to release the child to the other parent;*

*7. Allergies and intolerance to food, medication, or any other substances, and actions to take in an emergency situation;*

*8. Chronic physical problems and pertinent developmental information will be kept in a Category 2 file in accordance with the provisions of § 2.15 D;*



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9. Health information as required by §§ 2.24 through 2.26 of these regulations except that when a center is located in the same building where a child attends school and the child's record has a statement verifying the school's possession of the health record, the center is not required to maintain duplicates of the school's health record for that child provided the school's records are accessible during the center's hours of operation.

10. Written agreements between the parent and the center as required by §§ 2.21 through 2.23;

11. Name of any additional programs or schools that the child is concurrently attending and the grade or class level; and

12. Enrollment and termination date.

## § 2.17. Staff records.

Staff records shall be kept for paid staff and volunteer personnel which shall include the following:

1. Name, address, verification of age requirement, job title, and date of employment or volunteering;

2. Documentation that two or more references as to character and reputation as well as competency were checked before employment or volunteering. If a reference check is taken over the phone, documentation shall include dates of contact, names of persons contacted, the firms contacted, results, and signature of person making call;

3. Reference checks are not required for:

a. Staff hired before April 1, 1986, in centers initially licensed prior to the implementation of these regulations; and

b. Staff who began work in previously exempted centers that were initially required to be licensed prior to the implementation of these regulations;

4. A criminal record check as required by the Regulation for Criminal Record Checks for Child Welfare Agencies (VR 615-36-01);

5. Name, address, and telephone number of a person to be notified in an emergency, which shall be kept at the center;

6. Written information to demonstrate that the individual possesses the education, orientation training, staff development, certification, and experience required by the job position;

7. First aid and other certification as required by the responsibilities held by the staff member;

8. Health information as required by §§ 2.27 through 2.29 of these regulations;

9. Information, to be kept at the center, about any health problems which may interfere with fulfilling the job responsibilities; and

10. Date of termination when applicable.

## § 2.18. Activities log to be kept.

The center shall keep a written log of the following:

1. Children in attendance each day;

2. Medication given to children as required in § 7.4;

3. Children's accidents or injuries as required in § 7.9;

4. Asbestos inspections as required in subdivision C 2 of § 4.2, or as required by other applicable state or federal statutes and regulations; and

5. Emergency evacuation practice drills as required in § 7.7.

## § 2.19. Reports to be maintained.

Reports shall be filed and maintained as follows:

1. The center shall inform the Superintendent within two working days of the circumstances surrounding the following incidences:

a. Death of a child; and

b. Missing child when local authorities have been contacted for help.

2. Any suspected incidence of child abuse shall be reported in accordance with § 63.1-248.3 of the Code of Virginia.

## § 2.20. Agreement for medical treatment.

A written agreement between the parent and the center shall be in each child's record at the time of the child's enrollment. The agreement shall be signed by the parent and include:

1. An authorization for emergency medical care should an emergency occur when the parent cannot be located immediately; and

2. A statement that the center will notify the parent when the child becomes ill and that the parent will arrange to have the child picked up as soon as possible.

## § 2.21. Transportation and field trips.

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When applicable, written permission from the parent authorizing the child's participation in the center's transportation and field trips shall be in the child's record.

§ 2.22. Parent's written authorization for child to leave center unaccompanied.

If a parent wishes a child to leave the center unaccompanied, written permission from the parent authorizing the child to leave the center shall be secured and the center shall maintain a record of the child leaving unaccompanied.

§ 2.23. Termination.

When a center decides to terminate the enrollment of a child, the center shall provide the parent the reasons for termination in writing. Prior to termination, reasonable efforts shall be made to work with the child and the family to resolve any problems that would serve as a basis for termination.

§ 2.24. Immunizations for children.

A. Regulations by the State Board of Health for the immunization of school children require documentation of all age appropriate immunizations prescribed in the regulations before each child's enrollment to a center licensed by this Commonwealth. Documentation of immunizations is not required for any child whose (i) parent submits an affidavit to the center, on the form entitled "Certification of Religious Exemption," stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices; or (ii) physician or a local health department states on a MCH 213B or MCH 213C Form that one or more of the required immunizations may be detrimental to the child's health.

B. Updated information on immunizations received shall be obtained once between each child's fourth and sixth birthdays.

§ 2.25. Physical examinations for children.

A. Each child shall have a physical examination by or under the direction of a physician before enrollment or within one month after enrollment. For children two years of age through five years of age, the examination shall be completed within 12 months prior to enrollment.

B. Exceptions to these requirements may be made in the following instances:

1. Children transferring from a facility licensed by the Virginia Department of Education, certified by a local department of public welfare or social services; child day programs licensed by the Department of Social Services; registered as a small family day home by the Virginia Department of Social Services or by a contract agency of the Virginia Department of Social Services; or approved by a licensed family day

system.

a. If the initial report or a copy of the initial report of immunizations is available to the admitting facility, no additional examination is required.

b. If the initial report or a copy of the initial report is not available, a report of physical examination and immunization is required in accordance with §§ 2.25 and 2.26 of these regulations.

2. In accordance with subsection D of § 22.1-270 of the Code of Virginia, physical examinations are not required for any child whose parent objects on religious grounds. The parent must submit a signed statement noting that the parent objects on religious grounds and certifying that to the best of the parent's knowledge the child is in good health and free from communicable or contagious disease.

§ 2.26. Form and content of immunizations and physical examination reports for children.

A. The current form required by the Virginia Department of Health shall be used to report immunizations received and the results of the required physical examination. When the current Health Department form has not been used such as, but not limited to, when a child transfers from another state, other documentary proof of the child having received the required examination and immunization shall be accepted. Documentary proof may include, but not be limited to, an International Certificate of Immunization, another state's immunization form, or a physician's letterhead.

B. Each report shall include the date of the physical examination and dates immunizations were received.

C. Each report shall be signed by a physician, his designee, or an official of a local health department.

§ 2.27. Tuberculosis examination for staff.

A. Each staff member, including the licensee, administrator, and volunteer personnel, shall obtain and submit a statement that he is free of tuberculosis in a communicable form in accordance with LEA policy. The statement shall be submitted no later than five working days after employment or volunteering and shall:

1. Be dated within 30 days before or five working days after employment of the individual;
2. Include the types of tests used and the results; and
3. Include the signature of the physician, the physician's designee, or an official of a local health department except that when a staff member terminates work at one licensed facility or public school and begins work at a licensed center with a gap in service of six months or less, the previous

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statement of tuberculosis screening may be transferred to the licensed center. Centers newly subject to approval do not need to require staff hired prior to the implementation of these regulations to submit a statement of tuberculosis screening.

B. The tuberculosis examination shall be repeated as required by a licensed physician or the local health department.

C. Any staff member who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall within one month after exposure or development receive an evaluation in accordance with subsections A and B of this section.

## § 2.28. Requirement for staff and volunteer health examination.

When there is evidence that the safety of children may be jeopardized by the physical health or mental health of a staff member or volunteer, a report of examination of this person by a physician or, if appropriate, a clinical psychologist skilled in the diagnosis and treatment of mental illness shall be obtained in accordance with LEA policy. The request for obtaining an examination may come from the licensee, administrator, or department.

## § 2.29. Examination or test results.

If a staff member's or volunteer's examination or test results indicate that his physical or mental condition may jeopardize the safety of children or prevent his performance of duties, the staff member shall not be allowed contact with children or food served to children. The staff member may return when his condition is cleared to the satisfaction of the physician or clinical psychologist as evidenced by a signed, dated statement from the physician or clinical psychologist.

## PART III. PERSONNEL: EXEMPTIONS, EXCEPTIONS.

### § 3.1. Characteristics of staff.

A. No staff shall have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

B. All staff shall understand and be sensitive to the varying capabilities, interests, needs, and problems of children in care.

C. All staff shall be:

1. Of good character and reputation;
2. Capable of carrying out assigned responsibilities;
3. Willing and able to accept training and supervision;

4. Able to communicate effectively both orally and in writing as applicable to the job responsibility; and

5. Able to understand and apply the minimum standards in this booklet which relate to their respective responsibilities.

D. All staff who work directly with children shall have the ability to:

1. Communicate with emergency personnel and understand instructions on a prescription bottle;

2. Communicate effectively and appropriately with the age group to which the staff person is assigned;

3. Communicate effectively with parents;

4. Provide a stimulating and safe environment for the age group to which the staff person is assigned; and

5. Use materials, activities, and experiences to encourage children's growth and development.

### § 3.2. Staff holding multiple positions.

All staff who work in multiple positions within the center shall meet the qualifications for each position; however, personnel titles used in the standards are descriptive only. Centers are not required to use the same titles. The program director may have responsibilities for several centers at one site.

### § 3.3. Administrators.

A. There shall be an administrator designated to be in charge of the total operation of the center. Administrators hired after the effective date of these regulations who perform responsibilities of the program director shall be at least 21 years of age and shall possess an endorsement or a bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children.

B. The administrator may perform staff orientation, training or program development functions if the administrator meets these qualifications and a written delegation of responsibility specifies the duties of the program director.

C. Montessori school age programs may meet the alternative requirements in the Montessori module.

### § 3.4. Program director.

A. There shall be a program director designated to be responsible for developing and implementing the activities and services offered to children. There may be one program director for a center offering care to both preschool age and school age children at one site or there may be two directors, according to the age of the

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children, for a center serving preschool age and school age children. If a program director is responsible for a center with school age children and a center with children of preschool age or younger, the qualifications applicable to both preschool age and school age and younger shall apply.

B. Program directors for centers with school age children shall be at least 21 years of age unless directly supervised by an administrator meeting the qualifications of § 3.3, in which case, the program director shall be at least 19 years of age. Program directors shall possess an endorsement, bachelors, or associate degree in a child related field from an accredited college or university and six months of age appropriate programmatic experience in the group care of children; or Montessori school age programs may meet the alternative requirements in the Montessori module.

## § 3.5. Back-up for program directors.

A. For centers operating eight hours or more per day, if the program director is regularly present in the facility fewer than four hours per day, there shall be an officially designated person who shall assume the responsibility in the absence of the program director and meet the following qualifications:

1. An endorsement, bachelors, or associate degree in a child related field from an accredited college or university and six months of age appropriate programmatic experience in the group care of children;

2. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which 12 semester hours or 18 quarter hours are in subjects relating to group care of children and one year of age appropriate, programmatic experience in the group care of children; or

3. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university and two years of age appropriate, programmatic experience in the group care of children, of which one year of this experience is in a staff supervisory capacity.

B. In addition, if the program operates multiple shifts for working parents, a program director shall be regularly present for at least four hours of each shift or have a back-up program director who shall assume responsibility in the absence of the director and meet the qualifications of subdivisions 1 through 3 of subsection A.

C. For centers operating eight hours or less per day, if the program director is regularly present in the facility less than 50% of the hours of operation, there shall be an officially designated person who shall assume responsibility in the absence of the program director and meet the qualifications of subdivisions 1 through 3 of subsection A.

D. Montessori school age programs may meet the alternative requirements in the Montessori module.

## § 3.6. Program leaders and child care supervisors.

Program leaders and child care supervisors hired or promoted prior to the implementation of these regulations shall be at least 18 years of age and have a high school diploma or G.E.D. In addition, program leaders and child care supervisors who work with school age children shall meet the program director qualifications in § 3.4 or possess one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university;

2. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which 12 semester hours or 18 quarter hours are in subjects relating to the group care of children and three months of age appropriate, programmatic experience in the group care of children. For the programmatic experience to be considered age appropriate, at least some of the experience shall be with school age children; or

3. One year of age appropriate, programmatic experience in the group care of children.

Montessori school age programs may meet the alternative requirements in the Montessori module.

## § 3.7. Aides.

Aides shall be at least 16 years of age and shall meet the general qualifications, health, orientation training, and staff development requirements for the applicable position.

## § 3.8. Volunteer personnel.

Volunteer personnel shall meet the qualifications for the applicable position.

## § 3.9. Volunteers.

The duties of volunteers shall be clearly defined and in accordance with LEA policies.

## § 3.10. Orientation training.

Before assuming job responsibility, all staff shall receive the following training:

1. Job responsibilities and to whom they report;

2. The policies and procedures listed in §§ 2.13 and 2.14 that relate to the staff member's responsibilities;

3. The center's playground safety plan unless the staff member will have no responsibility for playground activities or equipment;

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4. Confidential treatment of personal information about children in care and their families; and

5. The minimum standards which relate to the staff member's responsibilities.

## § 3.11. Staff development.

A. The center shall have a plan for staff development.

B. Staff development activities to meet the requirements of subsection C of this section shall:

1. Be related to children and the function of the center;

2. Consist of some sources outside the center which may include but not be limited to audio and visual tapes, conferences, and workshops;

3. Be from someone with verifiable expertise or experience when conducted as in-service training;

4. Include annually the topics of safety for children, child development and discipline, and playground supervision for staff; and

5. Include planned instructional objectives and an assessment component to measure achievement of the desired outcomes.

C. In addition to first aid, CPR, and orientation training required elsewhere in these regulations, employed staff who work directly with children shall annually attend 16 hours of staff development activities related to school age children.

D. Montessori school age programs may meet the alternative requirements in the Montessori module.

## § 3.12. Health observation of children by staff.

Whenever one or more children under the age of eight are present in a center, there shall be at least one staff member on duty at all times who has obtained instruction in performing the daily health observation of children. This instruction shall be obtained from a physician, registered nurse, or health department medical personnel at a three-year interval.

## PART IV. PHYSICAL PLANT.

### § 4.1. Requirements prior to initial approval.

A. Before issuance of initial approval and before use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided by the applicant to the department:

1. Inspection and approval from the appropriate authority that the buildings meet building codes or that the center has an approved plan of correction; and

2. Inspection and approval from the local health department, or approval of a plan of correction, for meeting requirements for:

a. Water supply;

b. Sewage disposal system; and

c. Food service, if applicable.

Any building which is currently approved for school occupancy and which houses a public school during the school year shall be considered to have met the requirements of subdivision A 1 of this section when housing a center only serving children 2 1/2 years of age or older.

B. If a building was under construction before 1978, a written statement from a Virginia licensed asbestos inspector and management planner shall be submitted before initial approval in order to comply with § 63.1-198.01 of the Code of Virginia. The statement shall include:

1. Verification that the building in which the child day center is located was inspected for asbestos according to the requirements of the Asbestos Hazard Emergency Response Act - 40 CFR Part 763 - Asbestos Containing Materials in Schools;

2. The dates of the inspection;

3. Whether asbestos was found in the building;

4. Signature of the licensed asbestos inspector and management planner, including the Virginia license numbers; and

5. If asbestos is found or assumed, the statement shall include:

a. The location of any significant asbestos hazard areas;

b. Verification of completion of the management plan;

c. Response actions recommended by the inspector; and

d. Verification that response actions have been completed.

C. If asbestos was found in the building, before an approval is granted, the prospective program operator shall:

1. Secure, maintain, and make available to the department upon request a signed, written statement that:

a. Details actions to remove all asbestos containing materials and verifies that such actions have been completed; or

b. Assures that the recommendations of the operations and maintenance plan will be followed, appropriate staff will receive the necessary training and documentation of required inspections will be completed.

2. Maintain documentation of removal at the center for review by the department's representative.

3. Send written notification to the parents, department, and other adult occupants of the building about the presence and location of the asbestos containing material as well as the advisement that the asbestos inspection report and operation and maintenance plan are available for review. A copy of this notification shall be submitted to the department.

D. The department may request that the complete asbestos inspection report and operations and maintenance plan be submitted for review.

E. The asbestos requirements of subsections B and C of this section do not apply to child day centers located in a currently operating public school building or a state owned building since the asbestos requirements of these buildings are regulated by other agencies.

F. Prior to initial approval, camps shall make the following documentation available to the department upon request:

1. Notification of the closest fire department to the camp location;

2. Approval or permit from local building official for installation and operation of any incinerator; and

3. Approval from appropriate fire official for any open fire, if applicable.

#### § 4.2. Requirements subsequent to initial approval.

A. Every 12 months, written documentation shall be obtained and provided to the department, if requested, of inspection and approval from the appropriate fire prevention official that the center's facility complies with the Statewide Fire Prevention Code. If a center is located in a building currently housing a public school during the school year, the school's fire inspection report may be accepted in lieu of the requirements of this subsection if the inspection was completed within the past 12 months.

B. Subsequent to initial approval, and as required by the

local health department, written documentation shall be provided upon request of any additional inspections and approvals, or approvals of a plan of correction, for meeting:

1. Water supply;

2. Sewage disposal system; and

3. Food service, if applicable.

C. For those buildings where asbestos containing materials are found or assumed and not removed:

1. The administrator or a designated staff member shall take the required asbestos training as specified in the operations and maintenance plan for the facility;

2. The administrator or a designated staff member who has received the required asbestos training shall conduct visual inspections of all asbestos containing materials according to the schedule recommended in the management plan and document the date and the findings of these inspections; and

3. New parents and new adult occupants of the building shall be provided written notification of the presence and location of asbestos in the building and be advised that the asbestos inspection report and operations and maintenance plan are available for their review. A copy of this written notification shall be maintained at the center for review by the department's representative.

D. For those buildings where asbestos containing materials have been found or assumed and asbestos has been removed, the center shall maintain at the center documentation of that removal for review by the department's representative. Unless all asbestos containing materials have been removed, the operations and maintenance plan shall be followed for any remaining asbestos material.

E. Subsections C and D of this section do not apply to child day centers located in a currently operating public school building or a state owned building since the asbestos requirements of these buildings are regulated by other agencies.

#### § 4.3. Areas and equipment.

The facility's areas and equipment, inside and outside, shall be:

1. Maintained in clean and sanitary condition;

2. Maintained in conditions that are safe and free of hazards such as, but not limited to, sharp points or corners, splinters, protruding nails, loose rusty parts, and objects small enough to be swallowed, except that

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Montessori school age programs may meet the alternative requirements in the Montessori module; and

2. Maintained in operable condition.

## § 4.4. Heating provisions.

A. A heating system shall be provided except for camps for school age children that only operate from May 15 to October 1. The heating system shall meet the following specifications:

1. It shall be approved by the appropriate building official;

2. Heating shall not be provided by stoves except in camps for school age children;

3. It shall be installed to prevent accessibility of children to the system;

4. It shall have appropriate barriers to prevent children from being burned, shocked, or injured from heating equipment. In addition, proper supervision shall be available to prevent injury; and

5. In case of emergency, portable electric or kerosene heaters may be used if they have been previously inspected and approved by the appropriate building official.

B. In areas used by children, the temperature shall be maintained no lower than 68°F;

## § 4.5. Provisions for cooling in extreme conditions.

Fans or other cooling system shall be used when the temperature of areas used by children exceeds 80°F.

## § 4.6. Drinking water.

Provisions for water shall be as follows:

1. Drinking water fountains or individual disposable cups, or both, shall be provided. Drinking water shall be available and accessible at all times.

2. Where portable water coolers are used, they shall be of easily cleanable construction, maintained in a sanitary condition, kept securely closed, and so designed that water may be withdrawn from the container only by water tap or faucet. Individual disposable cups shall be provided.

3. Water which is transported to camp sites for drinking purposes shall be in enclosed containers.

4. Safe water shall be provided each day.

## § 4.7. Other equipment.

Building equipment shall include, but not be limited to, the following:

1. Outside lighting provided at entrances and exits used by children before sunrise or after sundown;

2. A working, nonpay telephone;

3. First aid kit or kits; and

4. Provision for locking medication as described in § 7.4 of these regulations.

## § 4.8. Hazardous substances and other harmful agents.

A. No center shall be located where conditions exist that would be hazardous to the health and safety of children.

B. Hazardous substances such as cleaning materials, insecticides, and pesticides shall be kept away from food preparation and storage areas and in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to the children.

C. Hazardous substances shall be stored in the original container unless this container is of such a large size that its use would be impractical.

D. If hazardous substances are not kept in original containers, the substitute containers shall clearly indicate their contents and shall not resemble food or beverage containers.

E. Cosmetics, medications, or other harmful agents of staff members shall not be stored in areas, purses or pockets that are accessible to children.

F. Hazardous art and craft material, such as those listed in Appendix II, and in other regulations of the board shall not be used with children.

## § 4.9. Other safety precautions.

Any building which is currently approved for school occupancy and which houses a public school during the school year shall be considered to have met the building requirements in this regulation when housing a center only serving school age children.

## § 4.10. Camp locations.

Camps shall be located on ground which has good surface drainage and which is free of natural and man-made hazards such as mine pits, shafts, and quarries. Adequate, approved safeguards or preventive measurements shall be taken when the camp is located on ground which is in or adjacent to swamps, marshes, landfills, abandoned landfills, or breeding places for insects or rodents of public health importance.

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## § 4.11. Portable camping equipment for heating and cooking.

A. Portable camping equipment for heating or cooking that is not required to be approved by the building official shall bear the label of a recognized inspection agency except for charcoal and wood burning cooking equipment.

B. No cooking or heating shall occur in tents.

## § 4.12. Activity space.

A. There shall be 35 square feet of indoor space available to each child where activities are conducted, except that:

1. Centers in operation prior to the implementation of these regulations and those newly subject to approval may have until July 1, 1996, to meet this requirement; and

2. Primitive camps for school age children are not required to meet this requirement if weather prevents outdoor activities by children:

a. Thirty-five square feet of indoor space per child is provided either at the program site or at a pre-designated, approved location off site; or

b. The program is canceled during this type of weather.

B. Areas not routinely used for children's activities shall not be calculated as available activity space. Space not calculated shall include, but not be limited to, offices, hallways, restrooms, kitchens, storage rooms or closets, and space occupied by equipment which is not used in or does not contribute to the children's activities.

C. A place away from the children's activity area shall be designated for children who are ill, injured, tired, or emotionally upset.

## § 4.13. Smoking prohibited.

Smoking shall be prohibited inside the center and outside the center in the presence of children, except that smoking may be allowed inside the building if it occurs in a room with a separate air circulation system from the one used for children's areas and the circulation system is vented directly to the outdoors.

## § 4.14. Restrooms.

A. Centers shall have at least two toilets and two sinks.

B. Each restroom provided for children shall:

1. Be within a confined area;

2. Be accessible and within the building used by the

children, except that restrooms used by school age children at camps do not have to be located within the building;

3. Have toilets that are all flushable;

4. Have sinks that are all equipped with running water which does not exceed 120°F; and

5. Be equipped with soap, toilet paper, and disposable towels.

C. For restrooms available to boys, urinals may be substituted for not more than one-half the required number of toilets, provided the center has at least two toilets.

D. An adult size toilet with privacy shall be provided for staff use. Staff toilets may be counted in the number of required toilets for children only if children are allowed unrestricted access to them on a routine basis. Primitive camps are not required to have a toilet facility with privacy for staff.

E. Restrooms shall have at least one standard size toilet and one sink for every 30 school age children. When sharing restrooms with other programs the children in the other programs shall be included in the toilet and sink ratio calculations. Montessori school age programs may meet the alternative requirements in the Montessori module.

F. School age children of the opposite sex shall not use the same restroom at the same time.

G. In any restroom used for school age children which contains more than one toilet, at least one toilet shall be enclosed for privacy.

H. Restrooms used by school age children at primitive camps are not required to have:

1. Sinks, if adequate water, supplies, and equipment for hand washing are available, and

2. Flushable toilets if the number of sanitary privies or portable toilets, constructed and operated in accordance with the applicable law and regulations of the Virginia Department of Health, meets the toilet ratio stated in this section. No privy or outdoor toilet shall be located within 75 feet of other buildings or camp activities.

## § 4.15. Requirements for centers with children who are not toilet trained.

Centers that serve children who are not toilet trained shall provide a diapering area which allows for sight and sound supervision of children in the classroom or is accessible and within the building used by children if the staff-to-children ratios required by § 5.2 are maintained in



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the classroom while other children are being escorted to toileting locations. The diapering area shall have at least the following:

1. A sink with running water not to exceed 120°F;
2. A nonabsorbent surface for changing diapers;
3. A leakproof storage system for diapers that is not hand operated;
4. A covered receptacle for soiled bed linens;
5. Soap and disposable towels; and
6. Privacy for changing diapers of school age children.

## § 4.16. Grandfather provisions.

Centers in operation prior to the implementation of these regulations and those newly subject to approval may have until July 1, 1996, to meet subsections E through G of § 4.17.

## § 4.17. Outdoor play areas.

A. The outdoor play area shall provide a minimum of 75 square feet of space per child in the area at any one time.

B. Playgrounds shall be located and designed in a way to protect children from hazardous situations.

C. While § 6.7 addresses the variety and amount of materials and equipment available for children, the specific playground equipment the center shall have is not designated. If playground equipment is provided, resilient surfacing that helps absorb the shock if a child falls off the equipment shall be placed under all fixed playground equipment with moving parts or climbing apparatus to create a fall zone free of hazardous obstacles. Fall zones are defined as the area underneath and surrounding equipment that requires a resilient surface. It shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use. Montessori school age programs may meet the alternative requirements in the Montessori module. For recommendations concerning resilient surfacing, see Appendix III.

D. Ground supports shall be covered with materials which would protect children from injury.

E. Equipment used by children shall:

1. Have no accessible openings between 3 1/2 inches and nine inches;
2. Have closed S-hooks when provided; and
3. Have no protrusions, sharp points, shearing points,

or pinch points.

F. All swing seats shall be made of flexible material.

G. Sandboxes with bottoms which prevent drainage shall be covered when not in use.

## PART V. STAFFING AND SUPERVISION.

### § 5.1. General provisions.

A. All aides, volunteer personnel, and volunteers shall be under the individual supervision of a staff member on site who meets the qualifications of a program leader, child care supervisor, or program director.

B. Each person serving in the positions of a program director, back-up program director, program leader or child care supervisor shall not be responsible for the individual supervision of more than two aides at any one time. In a training environment, aides used beyond the required staff-to-children ratio of § 5.2 shall not be included in the above requirement.

C. When with children, contract employees shall be sight supervised by a staff member unless the contract employee meets the personnel, health, and orientation training requirement for the applicable position.

D. All staff assigned responsibility for supervision of children shall ensure their care, protection, and guidance at all times. No child under the age of 14 shall be given supervisory responsibility.

E. During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the administrator or an adult appointed by the school division or designated by the administrator.

F. There shall be in each building of the center and on field trips at all times when one or more children are present:

1. At least two staff, one of whom meets the qualifications of a program leader, child care supervisor, or program director; or

2. One staff member who meets the qualifications of a program leader, child care supervisor, or program director and a readily available designated support person with direct means for communication between the two of them.

G. In each grouping of children at least one staff member who meets the qualifications of a program leader, child care supervisor or program director shall be regularly present.

H. Children under 10 years of age shall be within actual

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sight and sound supervision of staff at all times, except that staff need only be able to hear a child who is using the restroom provided that:

1. There is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care do not enter the restroom area while in use by children; and

2. Staff check on a child who has not returned from the restroom after five minutes.

I. Children 10 years of age and older shall be within actual sight and sound supervision of staff except when all of the following are met:

1. Staff can hear or see the children. Video equipment, intercom systems, or other technological device shall not substitute for staff being able to directly see or hear children;

2. Staff are nearby so they can provide immediate intervention if needed;

3. There is a system to assure that staff know where the children are and what they are doing;

4. There is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care do not enter the areas where children are not under sight supervision; and

5. Staff provide sight and sound supervision of the children at variable and unpredictable intervals not to exceed 15 minutes.

J. When the outdoor activity area is not adjacent to the center, there shall be at least two staff on the outdoor activity area whenever one or more children are present.

K. Staff shall greet each child upon arrival at the center and oversee each child's departure from the center.

## § 5.2. Staff-child ratios.

A. Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children.

B. A child volunteer not enrolled in the program shall not be counted as a child in the staff-to-children ratio requirements.

C. When children are regularly in ongoing mixed age groups, the staff-to-children ratio applicable to the youngest child in the group shall apply to the entire group, except that Montessori school age programs may meet the alternative requirements in the Montessori module.

D. The staff-to-children ratio shall be one staff member per 20 school age children except that Montessori preschools may meet the alternate requirements in the

Montessori module.

## PART VI. PROGRAMS, ACTIVITIES, PARENTAL INVOLVEMENT, EQUIPMENT, BEHAVIOR, GUIDANCE.

### § 6.1. Center schedule.

A. There shall be a predictable sequence to the day but the schedule shall be flexible, based on children's needs.

B. For centers operating more than two hours per day or more than two hours per session per day, outdoor or gymnasium activity shall be provided daily, weather allowing, according to the following:

1. If the center operates between two and five and one half hours per day or per session, there shall be at least 30 minutes of outdoor activity per day or per session.

2. If the center operates more than five and one half hours per day or per session, there shall be at least one hour of outdoor activity per day or per session.

3. Outdoor activity is not required on days when an all day field trip occurs and Montessori school age programs may meet the alternative requirements in the Montessori module for subdivision 2 of this subsection.

C. Staff shall provide opportunities for children to engage in self-chosen tasks and activities and allow children to learn from self-directed problem-solving and experimentation except that the requirements of this section do not apply to specialty camps.

### § 6.2. Developmentally appropriate activities.

A. The daily activities shall be developmentally appropriate and promote the individual child's physical, intellectual, emotional, and social well-being and growth as well as promoting curiosity and exploration.

B. To promote emotional development, each center, with the exception of specialty camps, shall provide for:

1. Opportunities for individual self-expression;

2. Recognition that each child is an individual;

3. Respect for personal privacy; and

4. Respect for each child's cultural, ethnic, and family background, as well as the child's primary language or dialect.

### § 6.3. Promoting social development.

A. To promote social development, the center shall

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provide:

1. Guidance to children in developing and working out ways of getting along with one another;
2. Staff interaction with children in ways which emphasize and foster attitudes of mutual respect between adults and children; and
3. Staff behavior which demonstrates respect for all other persons as individuals and appreciation of cultural and ethnic diversity;

B. The center shall provide for the self-direction of the children by:

1. Allowing children opportunities to choose activities according to personal desires and interests and to move freely from one activity to another;
2. Encouraging children to do things independently and to help with daily routines as appropriate to the child's developmental level but to be available to comfort and help when needed; and
3. Supporting children's friendships and providing children opportunities to be involved in decision making about group and individual activities.

C. In all centers except specialty camps, a variety of children's activities shall be provided that allow for group and individual involvement and child and staff initiation.

## § 6.4. Assistance with activities.

For children who cannot move without help, staff shall offer to change the places and position of the child and the selection of toys or objects available to the child at least every 30 minutes or more frequently depending on the individual needs of the child.

## § 6.5. Other activities.

A. The center shall provide a balance of active and quiet activities except for specialty camps.

B. Children of all ages shall be allowed to rest or sleep as needed on cots, mats, or beds, as appropriate.

C. Except for specialty camps and Montessori school age programs which meet the alternative requirements in the Montessori module, daily activities and experiences for school age children shall include, but not be limited to, the following:

1. Large motor activities for at least 25% of the program time;
2. Arts and craft activities;
3. Rhythm, music, and drama;

4. Small motor activities;

5. Special projects and hobbies; and

6. Opportunity to do homework in a suitable area.

## § 6.6. Parental involvement.

A. The center shall be open for parents to visit and observe their children at any time as stated in § 63.1-210.1 of the Code of Virginia and in accordance with LEA policies.

B. The center shall encourage parental involvement on a volunteer basis in appropriate center activities.

C. Staff shall share information with parents about their child's health, development, behavior, adjustment, and needs.

## § 6.7. Equipment and materials.

A. All furnishings, equipment, and materials shall be of a developmentally appropriate size for the child using it.

B. The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be developmentally appropriate for the children and shall include equipment and materials which:

1. Are in sufficient supply to avoid excessive competition among the children and to avoid long waits for use of the materials and equipment;
2. Provide for a variety of experiences and appeal to the individual interests and abilities of children;
3. Are accessible to children for the activities required by these standards;
4. Allow children to use small and large muscles for imaginative play and creative activities; and
5. Include multicultural materials.

C. Indoor slides and climbing equipment shall not be over bare concrete, hardwood floors, masonry, vinyl, tile surface or similar surface.

D. Storage space for play materials and equipment used by the children shall be accessible to children either independently or with help.

E. If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

F. All disposable products shall be used once and discarded.

G. Disposable dishes and utensils shall be sturdy enough.

to contain food without leakage and to prevent harm and injury to children.

H. Provision shall be made for a place for each child's personal belongings.

## § 6.8. Cots, rest mats and beds.

A. No more than one child at a time shall occupy a cot, rest mat, or bed.

B. Cots, rest mats, and beds shall be marked or identified in some way for use by a specific child.

C. Double decker cots or beds, or other sleeping equipment which is stacked shall not be used.

D. Occupied cots, rest mats, and beds shall be at least 2 1/2 feet from any heat source in use.

E. There shall be at least 15 inches of space between sides and ends of occupied cots, beds, and rest mats, except that 15 inches of space are not required where cots, beds, or rest mats touch the wall or where screens are placed between cots or beds as long as one side is open at all times to allow for passage.

F. If rest mats are used, they shall have comfortable cushioning and be sanitized between each use.

## § 6.9. Linens.

A. Linens for cots, rest mats, or beds shall consist of a top cover and a bottom cover or a one-piece covering which is open on three edges.

B. Linens shall be assigned for individual use.

C. Linens shall be maintained in clean and sanitary condition and shall be washed at least weekly.

D. When pillows are used, they shall be assigned for individual use and covered with pillowcases.

E. Mattresses when used shall be covered with a waterproof material which can be easily sanitized.

## § 6.10. Discipline.

A. Discipline shall be constructive in nature and include techniques such as:

1. Using limits that are fair, consistently applied, and appropriate and understandable for the child's level;
2. Providing children with reasons for limits;
3. Giving positively worded directions;
4. Modeling and redirecting children to acceptable behavior;

5. Helping children to constructively express their feelings and frustrations to resolve conflict; and

6. Arranging equipment, materials, activities, and schedules in a way that promotes desirable behavior.

B. There shall be no physical punishment or disciplinary action administered to the body such as, but not limited to, spanking; roughly handling a child; forcing a child to assume an uncomfortable position (e.g., standing on one foot, keeping arms raised above or horizontal to the body); restraining to restrict movement through binding or tying; enclosing in a confined space, box, or similar cubicle; or using exercise as punishment.

C. A child shall not be shaken at any time.

D. Staff shall not be verbally abusive which would include, but not be limited to, threats, belittling remarks about any child, his family, his race, his religion, or his cultural background, or other statements that are frightening or humiliating to the child.

E. When disciplining a child, staff shall not:

1. Force, withhold, or substitute food;
2. Force or withhold naps; or
3. Punish a child for toileting accidents.

F. When separation is used as a discipline technique, it shall be brief and appropriate to the child's developmental level and circumstances. The child who is separated from the group shall be in a safe, lighted, well-ventilated place and shall be within hearing and vision of a staff member.

G. No child, for punishment or any other reason, shall ever be confined in any space that the child cannot open, such as but not limited to closets, locked rooms, latched pantries, or containers.

H. Staff shall not give a child authority to punish another child nor shall staff consent to a child punishing another child.

I. Staff shall follow the center's policy on acceptable and unacceptable discipline methods.

## § 6.11. Staff and supervision during swimming and wading activities.

A. The staff-child ratios required by § 5.2 shall be maintained while children are participating in swimming or wading activities. The designated water safety instructor or senior lifesaver shall not be counted in the staff-to-children ratios.

B. If a pool, lake, or other swimming area has a water depth of more than two feet, a water safety instructor or senior life saver holding a current certificate shall be on

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duty supervising the children participating in swimming or wading activities at all times when one or more children are in the water. The certification shall be obtained from an organization such as, but not limited to, the American Red Cross, the YMCA, or the Boy Scouts.

C. A minimum of two staff members of the center shall be on duty supervising the children during swimming or wading activities when one or more children are in the water.

## § 6.12. Pools and equipment.

A. When permanent swimming or wading pools are located on the premises of the center, the following shall apply:

1. The manufacturer's specifications for operating the pool shall be followed as well as any local ordinances and any Department of Health requirements for swimming pools;

2. All pools constructed, renovated, or remodeled after April 1, 1986, shall have a statement in writing of their inspection and approval from the local building official when such approval is required;

3. Outdoor swimming pools shall be enclosed by safety fences and gates which shall be kept locked when the pool is not in use;

4. Entrances to swimming pools shall be locked when the pool is not in use; and

5. A whistle or other audible signaling device, a buoy or a lemon line, a reach pole, and a backboard shall be available at the swimming or wading site.

B. If children are allowed to swim in a lake or other place other than a pool, safe swimming areas shall be clearly marked.

C. All piers, floats, and platforms shall be in good repair and where used for diving, the minimum water depth shall be indicated on the deck or planking.

D. If children are allowed to swim at a lake or other body of water larger than a pool, there shall be a rescue boat available at all times which is equipped with a reach pole and a lemon line or buoy.

E. If portable wading pools are used, they shall be emptied of dirty water and filled with clean water for each day's use and more frequently as necessary.

## § 6.13. General emergency provisions for swimming and wading.

A. The center shall have emergency procedures and written safety rules for swimming or wading that are:

1. Posted in the swimming area when the pool is located on the premises of the center;

2. Given to staff involved in swimming or wading activities;

3. Given to parents of children participating in swimming or wading activities; and

4. Explained to children participating in swimming or wading activities.

B. Staff shall have a system for accounting for all children in the water.

C. Each child's swimming skills shall be determined before the child is allowed in water above the child's shoulder height.

D. Outdoor swimming activities shall occur only during daylight hours unless underwater and deck lighting is provided.

E. Children who are not toilet trained shall not use portable wading pools.

## PART VII.

### SPECIAL CARE PROVISIONS AND EMERGENCIES.

## § 7.1. Special care.

A. If a child arrives at the center with the signs or symptoms listed in subsection C of this section, the child shall not be allowed to attend for that day.

B. Staff with training as required in § 3.12 of these regulations shall observe daily each child under eight years of age for signs and symptoms of illness.

C. Unless otherwise instructed by the child's health care provider, that child shall be excluded if:

1. He has a temperature over 100°F, or

2. He has a communicable disease as delineated in the current Communicable Disease Chart recommendations for the exclusion of sick children.

D. If a child needs to be excluded according to subsection C of this section, the following shall apply:

1. Arrangements shall be made for the child to leave the center as soon as possible after the signs or symptoms are noticed, and

2. The child shall remain in the designated quiet area until leaving the center.

E. When a child at the center has been exposed to a reportable communicable disease, the parent shall be informed.

F. Children's hands shall be washed with soap and running water before eating meals or snacks, after toileting, and after any contact with body fluids.

G. Staff shall wash their hands with soap or germicidal cleansing agent and water after helping a child with toileting, after the staff member uses the toilet, after any contact with body fluids, and before feeding or helping children with feeding.

H. When a child's clothing or diaper becomes wet or soiled, it shall be changed immediately.

## § 7.2. Children not toilet trained.

A. The child's soiled area shall be thoroughly cleaned with a disposable wipe during each diapering.

B. Staff shall wash their hands with soap or germicidal cleansing agent and water after each diaper change.

C. Disposable diapers shall be used for children in diapers unless the child's skin reacts adversely to disposable diapers. If cloth diapers are used, there shall be separate step-on diaper pails for the cloth and disposable diapers.

D. Surfaces for changing diapers shall be used only for changing diapers or cleaning children.

E. Diapers shall be changed on a nonabsorbent surface which shall be washed with soap and warm water or a germicidal cleansing agent after each use.

F. Tables used for children's activities or meals shall not be used for changing diapers.

## § 7.3. Prescription and nonprescription medication.

Prescription and nonprescription medication shall be given to a child according to the center's written medication policies and only with written authorization from the parent or in accordance with the division's policy whichever is more exacting.

## § 7.4. Medication policies.

A. The center's medication policies shall address methods for administering medication and shall include:

1. Any general restrictions of the center;
2. Duration of the parent's authorization for medication provided that it shall expire or be renewed after 10 work days. Long-term prescription drug use may be excepted if a form such as the one in Appendix V is completed and on file; and
3. Methods to prevent use of outdated medication.

B. The medication authorization shall be available to

staff during the entire time it is effective.

C. All medication shall be labeled with the child's name, the name of the medication, the dosage amount, and the time or times to be given.

D. All medication shall be in the original container with the prescription label or direction label attached.

E. When needed, medication shall be refrigerated. When medication is stored in a refrigerator used for food, the medications shall be stored together in a container or in a clearly defined area away from food.

F. All medication, including refrigerated medication and staff's personal medication, shall be kept in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to children.

G. Centers shall keep a log of medication given children which shall include the following:

1. Child to whom medication was administered;
2. Amount and type of medication administered to the child;
3. The day and time the medication was administered to the child; and
4. Staff member administering the medication.

H. Medication shall be returned to the parent as soon as the medication is no longer being administered.

## § 7.5. First aid provisions.

A. There shall be a person(s) on the premises during the center's hours of operation trained in CPR and first aid and also one person on all field trips who is trained in first aid and CPR. This person(s) shall be available to children and meet one of the following qualifications for first aid training:

1. Has a current first aid and CPR certificate by the American Red Cross;
2. Has a current first aid certificate by the National Safety Council;
3. Has successfully completed, within the past three years, a first aid course equivalent to the curriculum which has been approved by the State Board of Health; or
4. Be a R.N. or L.P.N. with a current license from the Board of Nursing.

B. Camps shall have at least one staff member with first aid training, as mentioned in subdivisions A 1 through 4 of

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this section, for every 30 children present.

C. Camps shall have at least one staff member on the premises during all hours of the program's operation and also one person on all field trips who is available to children and has a current cardiopulmonary resuscitation (CPR) certificate. When there are more than 30 children present, there shall be at least one staff person with current CPR training for every 30 children present.

D. Primitive camps shall have a staff member on the premises during the hours of operation who has successfully completed at least first responder training within the past three years.

E. A first aid kit shall be on each floor of each building used by children and on all field trips.

F. The required first aid kit shall include at a minimum, scissors; tweezers; gauze pads; adhesive tape; band-aids, assorted types; an antiseptic cleansing solution; an antibacterial ointment; thermometer; two or more triangular bandages; disposable gloves; and the first aid instructional manual.

G. Each first aid kit shall be stored so that it is not available to children but is easily available to staff.

## § 7.6. Emergency supplies.

The following emergency supplies shall be required:

1. Syrup of ipecac or activated charcoal preparation (to be used only upon the advice of the physician or the Poison Control Center);
2. Chemical cooling agents, zip-lock bags, and sponges readily available for icing down contusions, sprains, and breaks;
3. A working, battery-operated flashlight on each floor of each building of the facility that is used by children; and
4. One working, battery-operated radio in each building of the facility used by children and any camp location without a building.

## § 7.7. Procedures for emergencies.

A. The center shall have an emergency evacuation plan developed in accordance with LEA policies that addresses staff responsibility with respect to:

1. Sounding of fire alarms and notification of local authorities;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, and checking to ensure complete evacuation of the buildings;

3. Fire containment procedures, e.g., closing of fire doors or other barriers; and

4. Other special procedures developed with local authorities.

B. Emergency evacuation procedures shall be posted in a location conspicuous to staff and children on each floor of each building of the center.

C. The center shall implement these emergency evacuation procedures through monthly practice drills and shall maintain a log of the dates of the monthly drills for one year. For centers offering multiple shifts, the evacuation procedures shall be divided evenly among the various shifts.

D. A generic emergency number such as 911 shall be posted in a conspicuous place near each telephone. If a generic number is not available, the following numbers shall be posted near each phone:

1. A physician or hospital;
2. An ambulance or rescue squad service;
3. The local fire department; and
4. The local police department.

E. The number of a regional poison control center shall be posted in a conspicuous place near each phone.

F. The center shall develop a plan for action in case of a missing or injured child which shall address:

1. Immediate notification of emergency services;
2. Stabilization of injured child; and
3. Transportation of injured child if necessary.

G. If an ambulance service is not readily available within 10 to 15 minutes, other transportation shall be available at all times in case of emergency.

## § 7.8. Parental notification in emergencies.

The center or other appropriate official shall notify the parent immediately if a child is lost, experiences a serious accident, needs emergency medical care, or dies. The center shall notify the parent at the end of the day of any known minor accidents or injuries. Examples of a serious accident might include unconsciousness; broken bones; deep cut requiring stitches; concussion; foreign object lodged in eye, nose, ear, or other body orifice. Examples of a minor accident might include a small scratch, cut or scrape; minor bruise or discoloration of the skin.

## § 7.9. Emergency log required.

The center shall maintain a written log of children's injuries in which entries are made the day of occurrence. The log shall include the following:

1. Date and time of injury;
2. Name of injured child;
3. Type of injury;
4. Circumstances of the injury;
5. Names of staff present during the injury;
6. Treatment; and
7. Method of notifying parents.

§ 7.10. Warning system required in camps.

The camp shall have a warning system. Staff and campers shall be trained in this alarm system.

## PART VIII. SPECIAL SERVICES, NUTRITION, TRANSPORTATION.

§ 8.1. Nutrition generally.

A. Centers shall serve appropriate snacks or meals, or both, based on the hours of operation and time of the day. Where the federal and state statutes and regulations exceed these requirements, those shall take precedence.

B. The center shall ensure that children arriving from a half-day, morning kindergarten program who have not yet eaten lunch receive a lunch.

C. There shall be at least 1 1/2 hours between each meal and snack but no more than three hours between meals and snacks.

D. Drinking water or other beverage not containing caffeine shall be offered at regular intervals to nonverbal children.

E. In environments of 80°F or above, constant attention shall be given to the fluid needs of all children. Children in such environments shall be encouraged to drink fluids.

§ 8.2. Food provided by the center.

When food is provided by the center, the following shall apply:

1. Centers providing care to the same children more than four hours a day shall comply with the nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (USDA) or the meal patterns in Appendix VI.

2. Centers offering both meals and snacks shall serve a variety of nutritious foods and shall serve at least three sources of vitamin A and at least three sources of vitamin C on various days each week. Appendix VII lists sources of vitamin A and vitamin C.

3. A menu listing all foods to be served for all meals and snacks during the current one-week period shall be:

- a. Dated;
- b. Posted in a location conspicuous to parents or given to parents;
- c. Indicate any substituted food; and
- d. Kept on file for six weeks at the center.

4. Powdered milk shall be not be used except for cooking.

§ 8.3. Food brought from home.

When food is brought from home, the following shall apply:

1. The food shall not be subject to rapid deterioration or spoilage;
2. The center shall give parents the USDA requirements and a list of suggested nonperishable food;
3. The food shall be clearly labeled in a way that identifies the owner;
4. The center shall have extra food or shall have a plan available to obtain food to serve to children so they can have an appropriate snack or meal if they forget to bring food from home, bring an inadequate meal or snack, or bring perishable food; and
5. All unused portions of food shall be discarded and not served again.

§ 8.4. Catered foods.

If a catering service is used, it shall be approved by the local health department.

§ 8.5. Food during cookouts.

A. All food shall be prepared in a clean and sanitary manner.

B. Unused, perishable food shall be discarded and not served again.

§ 8.6. Transportation.



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If the center transports children to the site of the center, the center shall assume responsibility for the child between the place where the child boards the vehicle and the center site, while at the center and on any center field trips, and from the time the child leaves the center site until the child is delivered to a designated location or to a responsible person designated by his parent. Regulations governing pupil transportation adopted by the board may supercede these transportation provisions if more stringent or applicable.

## § 8.7. Vehicle requirements.

Any vehicle used by the center for the transportation of children shall meet the following requirements:

1. The vehicle shall be enclosed and provided with door locks;
2. The vehicle's seats shall be attached to the floor;
3. The vehicle shall be insured with at least the minimum limits set by the Virginia state statutes; and
4. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children.

## § 8.8. Provisions for safety during transportation.

A. The center shall ensure that during transportation of children:

1. Virginia state statutes about safety belts and child restraints are followed;
2. The children remain seated and each child's arms, legs, and head remain inside the vehicle;
3. Doors are closed properly and locked;
4. At least one staff member or the driver always remain in the vehicle when children are present;
5. The telephone numbers for obtaining emergency help as stated in § 7.7 of these regulations are in the vehicle and available to staff;
6. The name, address, and phone number of the center and an additional emergency contact number is in the vehicle and available to staff; and
7. A list of the names of the children being transported is kept in the vehicle.

B. When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the vehicle or in a protected parking area or driveway.

C. When necessary to cross streets, children shall cross

streets at corners or crosswalks or other designated safe crossing point if no corner or crosswalk is available.

D. The staff-to-children ratio of § 5.2 of these regulations shall be followed on all field trips but not necessarily in each vehicle. The staff-to-children ratio may not be followed during transportation of children to and from the center. Montessori school age programs may meet the alternative requirements in the Montessori module.

## § 8.9. Field trips.

A. At least one staff member on field trips shall be trained in first aid according to subdivisions A 1 through 4 of § 7.5 of these regulations and shall be instructed on procedures to follow if there is a vehicle break down.

B. A first aid kit with the supplies mentioned in § 7.5 F of these regulations; syrup of ipecac or activated charcoal preparation; and chemical cooling agents; for icing down contusions; sprains; and breaks shall be available to staff on field trips.

C. The center shall make provisions for providing children on field trips with adequate food and water.

D. If perishable food is taken on field trips, the food shall be stored in insulated containers with ice packs to keep the food cold.

E. Before leaving on a field trip, a schedule of the trip's events and locations shall be posted and visible at the center site.

F. There shall be an established plan of communication between staff at the center site and staff who are away from the center site transporting children or on field trips.

G. The center shall develop and implement procedures to assure that all children return to the facility after a field trip.

H. Staff shall follow the center's transportation safety policy.

I. Parental permission for transportation and field trips shall be secured at least 24 hours before the scheduled activity. If a blanket permission is used instead of a separate written permission, the following shall apply:

1. Parents shall be notified of the field trip; and
2. Parents shall be given the opportunity to withdraw their children from the field trip.

## § 8.10. Animals.

A. Animals that are kept on the premises of the center shall be vaccinated if applicable against diseases which present a hazard to the health of children.

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B. Animals which are, or are suspected of being, ill or infested with external lice, fleas and ticks or internal worms shall be removed from contact with children.

C. If a child is bitten by an animal, an attempt shall be made to confine the animal for observation or laboratory analysis for evidence of rabies. The site of the bite shall be washed with soap and water immediately, and the child's physician or local health department shall be contacted as soon as possible for medical advice. The center shall report the animal bite incident to the local health department.

D. Manure shall be removed from barns, stables and corrals at least once a day and stored and disposed of in a manner to prevent the breeding of flies.

## § 8.11. Resting.

A. For evening care, beds with mattresses or cots with at least one inch of dense padding shall be used by children who sleep longer than two hours. Camps, providing evening or overnight care to school age children on an occasional basis, are not required to meet the requirements of this subsection if sleeping bags or cots are used.

B. For overnight care, beds with mattresses or cots with at least two inches of dense padding shall be used by children, except that camps, providing evening or overnight care to school age children on an occasional basis, are not required to meet the requirements of this subsection if sleeping bags or cots are used.

C. For overnight care which occurs for a child on a weekly or more frequent basis, beds with mattresses shall be used.

D. In addition to § 6.9 of these regulations, bedding appropriate to the temperature and other conditions of the rest area shall be provided.

E. For evening and overnight care, separate sleeping areas shall be provided for children of the opposite sex eight years of age or older.

F. If sleeping bags are used, § 6.8 of these regulations shall also apply to the use of sleeping bags.

G. Camps may use bunk beds if children are at least eight years of age.

## § 8.12. Evening and overnight care.

A. In centers providing overnight care, except for primitive camps, an operational tub or shower with heated and cold water shall be provided.

B. When bath towels are used, they shall be assigned for individual use.

C. Activities for children in evening or overnight care shall include, as time allows, age-appropriate activities as described in subsection C of § 6.5 of these regulations.

Quiet activities and experiences shall be available immediately before bedtime.

D. For children receiving evening and overnight care, the provider shall offer a regularly scheduled evening meal and snack.

## PART IX. MONTESSORI MODULE.

### § 9.1. Programs generally.

Montessori school age programs are educational programs wherein the teacher training and subsequent pedagogy are approved by either American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori, thus verifying that the school meets the Montessori standards as outlined in the Montessori module.

### § 9.2. Waivers.

Meeting these Montessori standards shall afford the Montessori school age program a waiver from specific minimum standards that conflict with the Montessori educational philosophy as referenced in the regulations. Only school ages which meet the Montessori criteria as outlined in the module are eligible to comply with the modified licensing standards contained in the Montessori module.

### § 9.3. Additional approval required.

Programs operated by a Montessori school age program which go outside the scope of the regular Montessori school age classes shall comply with the minimum standards for licensed child day centers without the benefit of the Montessori module for the extended care portion of the day. Programs going beyond four hours per day for children ages 2 1/2 through four and beyond 6 1/2 hours per day for children five through six years of age, exclusive of the allowable two hour additional enrichment program once a week, shall comply with the minimum standards for licensed child day centers without the benefit of the Montessori module for the extended care portion of the day. Regular Montessori school age classes within an all day program shall meet the minimum standards for licensed child day centers with the option of meeting the Montessori module to obtain waivers from specified standards that conflict with the Montessori philosophy for the regular day portion of their program only.

### § 9.4. Administrators.

The administrator of a Montessori school age program shall be at least 21 years of age and shall have or meet

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one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
3. The teacher qualification standards of American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori; or
4. Five years of Montessori programmatic experience if the program director meets one of the qualifications of subdivisions 1 through 3 of this section.

## § 9-5. Program directors and back-up program directors.

The program director and back-up program director at a Montessori school age program shall be at least 21 years of age and shall have or meet one of the following:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children;
3. The Montessori teacher qualification standards of American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori; or
4. Five years of Montessori programmatic experience.

## § 9-6. Teachers.

Montessori teachers at a Montessori school age program shall:

1. Be at least 21 years of age, and
2. Hold a teaching diploma recognized by American Montessori Society, American Montessori Internationale, National Council of Montessori Education, or Saint Nicholas Montessori for the level the teacher is teaching.

## § 9-7. Staff development.

A. In addition to first aid and orientation training required elsewhere in these regulations, employed staff

who work directly with a single group of children for more than three hours daily at a Montessori school age program shall:

1. Take advantage of formal and informal opportunities for personal and professional growth, including methodology and specific subject matter, as recognized by Montessori standards for a minimum of eight hours annually; or
2. In the event of a staff member's participation in a credit course or a seminar longer than eight hours, these hours may be prorated over a period of no more than five years at the rate of 12 hours annually.

B. Specialty staff at a Montessori school age program providing enrichment activities to a single group of children less than three hours a week shall take advantage of opportunities for professional growth to remain current in their field of expertise.

## § 9-8. Facilities.

The facilities of a Montessori school age program, inside and outside, shall be maintained in conditions that are safe and free of hazards, protruding points or sharp corners, splinters, protruding nails, and loose rusty parts.

## § 9-9. Materials.

The Montessori materials at a Montessori school age program shall be maintained in an attractive, accessible, and safe manner, so as to afford the children complete and appropriate opportunity to develop individual and group skills according to the Montessori curriculum standard.

## § 9-10. Restrooms.

A Montessori school age program shall have restrooms that are easily accessible with a ratio of one toilet and one sink for every 20 children.

## § 9-11. Outdoor play areas.

A Montessori school age program shall have a safe outdoor play area which allows for exploration of nature and provides a resilient surface in fall zones.

## § 9-12. Grouping of children.

A Montessori school age program shall maintain a balanced multi-age grouping, with a ratio of one staff member for every 15 children.

## § 9-13. Activities.

Teachers at a Montessori school age program shall be, at all times during the Montessori program, responsible for the development and activities of the children in the Montessori class. In the event of the teacher's extend

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absence, there shall be sufficient substitute staff to comply with a ratio of one staff member for every 12 children.

## § 9.14. Auxiliary personnel.

A Montessori school age program shall have readily accessible, and in close classroom proximity, auxiliary persons sufficient to maintain a 1:10 adult-to-child ratio for 2 1/2 to four year olds or 1:15 for balanced mixed age groupings of 2 1/2 to six year olds, to be available in the event of emergency evacuation.

## § 9.15. Skills development.

A Montessori school age program shall offer outdoor and indoor space affording the children complete opportunity to develop individual and group skills, including large and small motor development.

## § 9.16. Outdoor activity required.

In a Montessori school age program operating between five and 6 1/2 hours per day there shall be at least 1/2 hour of outdoor activity per day.

## § 9.17. Pedagogical guidelines.

A Montessori school age program shall abide by the pedagogy and curriculum guidelines in the Montessori module.

## § 9.18. Transportation.

During transportation of children and on all field trips, the staff-to-children ratio for a multi-age grouping of students in a Montessori school age program shall be no more than one to 20.

## § 9.19. Hours and scope of operation.

A. A Montessori school age program shall operate, at a minimum, nine months a year, five days a week, allowing for holidays, teacher in-service days, and parent-teacher conferences, as deemed necessary by the school age program in accordance with Montessori standards.

B. The hours of operation for a Montessori school age program for children, ages 2 1/2 through four years, shall be at least three hours a day, but not more than four hours a day.

C. The hours of operation for a Montessori school age program for children five through six years of age shall be at least six hours a day but no more than 6 1/2 hours a day.

D. Enrichment programs, compatible with Montessori standards shall be acceptable when operated, in keeping with the Montessori curriculum; physical, emotional, and developmental welfare of the child; and available to the individual child not more than an additional two hours

once a week.

E. Any program operated beyond these specified school hours and ages of children shall comply with the minimum standards for licensed child day centers without the benefit of the Montessori module for the extended care portion of the day. Regular Montessori school age classes within an all day program shall meet the minimum standards for licensed child day centers with the option of meeting the Montessori module to obtain waivers from specified standards that conflict with the Montessori philosophy for the regular day portion of their program only.

## § 9.20. Montessori class structure and supervision.

A. A class shall be deemed a group of children under the direct and continuous supervision of a fully qualified Montessori teacher.

B. Teachers at a Montessori school age program shall maintain a safe Montessori environment for the class.

C. Teachers at a Montessori school age program shall give the appropriate, individual or group lessons and supervise the ongoing work of the children in accordance with all Montessori pedagogical standards, included herein.

D. Teachers at a Montessori school age program shall be observant of the needs of the children in the class at all times and, accordingly, shall provide developmentally appropriate materials and class designation regardless of age.

E. Teachers at a Montessori school age program shall be aware of the family backgrounds and individual needs and development of the children within the Montessori program.

F. Teachers at a Montessori school age program shall maintain appropriate and confidential communication and records with other school personnel and parents as necessary for the development of the child.

G. Children enrolled in a Montessori class at a Montessori school age program shall demonstrate to the teacher an adequate level of development indicating a readiness for formal Montessori education.

H. Children enrolled in the Montessori class at a Montessori school age program shall be toilet trained and demonstrate a level of large and small motor development acceptable to working in a positive manner within the Montessori classroom environment.

I. Children enrolled in the Montessori class at a Montessori school age program shall demonstrate adequate communication skills and the ability to function with appropriate independence outside the home or away from a day-care provider.

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J. Children are initially accepted into a Montessori program at a Montessori school age program on an observational basis, and shall be given adequate, but limited, time to demonstrate individual readiness for the Montessori program.

K. A newly established Montessori class at a Montessori school age program shall be comprised of no more than 12 to 15 children between the ages of 2 1/2 and six years and shall not increase enrollment to more than 25 children during its first year.

L. As the children and the class develop at a Montessori school age program, the class structure may gradually build to the recommended Montessori size of 25 to 30 children between the ages of 2 1/2 and six years of age.

M. The class and the children at a Montessori school age program shall function at all times during the Montessori program according to the Montessori standards as outlined herein.

## § 9.21. Classroom materials.

A. Classrooms at a Montessori school age program shall contain the necessary and appropriately approved Montessori materials for each age level in the class. These Montessori materials may be complemented by appropriate, teacher-approved materials, but shall not displace or detract from the implementation of the Montessori materials.

B. The children at a Montessori school age program shall have continuous access to these materials as deemed appropriate by the Montessori teacher.

C. These materials at a Montessori school age program shall be organized in the classroom and used by the children in work areas that afford safe and ample working space under the direction of the Montessori teacher.

D. Use of Montessori materials in a Montessori school age program shall be presented by the Montessori teacher in accordance with the Montessori curriculum standards as included herein.

## § 9.22. Curriculum guidelines.

Curriculum guidelines, including appropriate materials for children from two years to six years, as stated below shall be followed in a Montessori school age program.

These requirements are based on guidelines used by American Montessori Society, American Montessori Internationale, National Council of Montessori Education, and Saint Nicholas Montessori teacher training.

### PRACTICAL LIFE

Preliminary Exercises: Spooning, Pouring rice, Pouring water

Purpose: To teach the child muscular control, care, exactness, how to pour.

Indirect preparation for writing.

Age: 2 1/2 - 3 1/2

Preliminary Exercises: Napkin folding

Purpose: To teach muscular control, exactness.

Indirect preparation for geometry.

Age: 2 1/2 - 4

Care of the Environment: Table washing, Dusting, Polishing wood, Polishing metal, Arranging flowers, Sweeping

Purpose: To teach the child how to care for his environment so that he might adapt to his environment and gain independence.

To teach control of action, acquisition of movement, order and sequence, conscious awareness, development of large and small muscles, left to right movement, increased concentration through repetition.

Preparation for life and future learning.

Age: 2 1/2 - 4 and up

Care of the Person: Dressing frames, Polishing shoes, Washing hands

Purpose: To teach the child to care for himself, to take pride in his person, to gain independence and self-worth.

Age: 2 1/2 - 4 and up

Grace and Courtesy

How to interrupt, listen, make way, pass

How to greet, introduce oneself, offer a chair, take a cookie, serve others, carry scissors, etc.

Purpose: To help the child develop understanding of rules of grace and courtesy, to adapt and be accepted into a social group.

Age: 2 1/2 and up

Movement

How to walk, move around the room, move furniture, stop when hear bell, walk on line, carry a chair, sit properly, carry mats & materials, roll a mat, where to place mat, open & close a door, play silence game, respect silence, etc.

Purpose: To learn control of movement, self awareness of

ones self, purposeful activity order, respect for persons and property, attention to details and environment.

Age: 2 1/2 and up

## SENSORIAL

Purpose: Aid the child's processes of classification.

### Visual Discrimination

Pink Tower, Broad Stair, Long Stair, Solid Cylinders, Color tablets, Geometric Cabinet, Biology Cabinet, Binomial & trinomial cube, Constructive triangles, Superimposed geometric figures, Knobless Cylinders, Solid Geometric shapes, Mystery bag, Progressive Exercises

Purpose: To teach visual discrimination of dimension (length, width, height).

Indirect preparation for number work, algebra and proof of formulas, geometry, art, biology.

Indirect preparation for writing.

Development of vocabulary.

Age: Progressive from 2 1/2 to 4 1/4 +

### Auditory discrimination

Sound boxes, Bells, Listening exercises

Purpose: Training of auditory sense, discrimination of sounds, development of listening skills, discrimination of tones.

Age: 2 1/2 and up

### Tactile Sense

Rough and smooth boards, Rough and smooth tablets, Fabrics

Purpose: Development of tactile sense, control of muscular action and lightness touch.

Indirect preparation for writing.

Age: 2 1/2 - 3 1/2

Baric, Thermic, Olfactory Senses

Baric tablet, Thermic bottles, Scent boxes and bottles

Purpose: Further develop senses. Help one to be aware of one's environment.

Age: 2 1/2 and 3 1/2

## LANGUAGE

### Oral Vocabulary

Enrichment of vocabulary, Language training

Purpose: Through giving the names of objects in the environment, the sensorial materials and their relations, picture card materials, stories, poems, etc. help the child develop a fluent vocabulary so that he might express himself both orally and in written form.

Preparation for reading, writing, self expression, research in cultural areas.

Age: 0 and up

### Writing

Sand paper letters (sound game), Moveable Alphabet, Metal Insets, Perfection of writing

Purpose: To make the child aware of the sounds in words and to unite these sounds by muscular and visual memory.

To help him explore and analyze his vocabulary.

To acquire mastery of the hand in wielding a writing instrument.

Age: Progressive 2 1/2 - 4

### Reading

Phonetic object game, Phonograms, Puzzle/Secret words

Purpose: To give facility to phonetic reading.

To give the keys to further reading and exploration of language.

Age: 4 1/2 - 5

### Reading Classification

Social cards, cultural cards, Definition booklets, Labels for environment, Etc.

Purpose: To further the child's reading and knowledge by introducing him to the written symbols for words he knows.

To enable him to classify his knowledge.

Age: 4 1/2 on

### Function of Words

Article, Adjective, Logical Adjective game, Conjunction, Preposition, Verb, Adverb, Commands

Purpose: To make the child aware of the individual function of words in his reading and writing.

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To give him further keys to the perfection of reading, writing and self expression.

Age: 4 1/2 - 5

Reading Analysis

Simple sentence (first stage, second stage and extensions, attributes and appositives)

Purpose: To give the child the keys to total reading, full awareness of the intent feeling and style of the writer.

Help the child in his own reading and writing.

Age: 5 1/2 and up

Word Study

Purpose: To allow the child to explore words on a more advanced level.

Punctuation

Purpose: To help the child communicate more effectively in his written work.

Reading & writing of Music

Green boards with notes, Green manuscript board, White music charts, Summary exercises, Learning songs, Musical instruments, etc.

Purpose: To recognize and create the language of musical composition through notation and lyrics.

Age: 4 1/2 and up

MATHEMATICS

Numbers (1 to 10)

Number rods, Sandpaper numbers, Number rods and cards, Spindle boxes, Cards and counters, Memory game

Purpose: To give the keys to the world of written numbers.

To understand that each number is an entity unto itself.

To teach the quantity, the symbol of sequence of numbers.

To teach the concept of zero.

Preparation for additional math.

Age: 4

Decimal system (Golden Bead Exercises)

Introduction of beads, Introduction of cards, Cards and beads together, Processes of Addition, subtraction, multiplication, division

Purpose: To teach the concepts of the decimal system through 1000s.

To give the child the overall picture of the workings of the decimal system and all its processes.

Age: 4 1/2 to 5 1/2 +

Further Exercises in Math

Linear and skip counting, Teen board, Tens board, Stamp game, Dot game, Snake Game, Addition strip board, Negative snake game, Negative strip board, Bead Bar Layouts, Multiplication Bead Board, Division Unit Board, Charts, Small Bead Frame, Hierarchical materials, Large Bead frame, Racks and tubes, Fractions

Purpose: To give the child opportunity for further exploration with numbers, the opportunity for repetition and perfection in executing the processes in math.

The opportunity to commit to memory the math facts.

Steps to total abstraction.

Age: 5 - 6 1/2 and up

GEOGRAPHY

Sandpaper Globe, Land & Water Forms, Painted Globe, Puzzle Maps, Pictures, Definition cards, Stories, Simple reference books

Purpose: To introduce the child, to the concepts of physical political, economic geography, interdependence of man and related language.

Age: 2 1/2 +

HISTORY

Artifacts, Pictures, Definition cards, Simple reference books, Stories

Purpose: To introduce the child to world cultures, physical and spiritual needs of man throughout history, famous persons, holidays, etc.

Age: 2 1/2 +

MUSIC

Songs, Records, tapes, Rhythm and movement, Tone bells, Tone charts, Composers/famous music

Purpose: To give the child a variety of musical experiences, including pitch, tone, rhythm, movement.

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auditory comparisons, related symbols and language.

Age: 2 1/2 +

## CREATIVITY

Appropriate media, Pictures, Stories, Reference books, Practical life, Sensorial lessons

Purpose: To introduce the child to concepts of color, tone, light, form, history and art appreciation; and, afford the child appropriate opportunities for self expression.

Age: 3 +

## BOTANY/BIOLOGY

Botany leaf cabinet, Plants, Pictures/plants and animals, Definition cards, Classifications materials, Stories, Simple reference books, Opportunities to explore nature

Purpose: To introduce the child to nature, the vast variety of plants and animals; the characteristics and functions; simple classification of the plant and animal kingdom; interdependence and ecology.

Age: 2 1/2 +

\* All work in the areas of science, history, culture, music, and creativity are interrelated and presented to give the child an age appropriate understanding of these areas, factual information, the tools and ability to work with the materials, and the opportunity to share this knowledge.

Important prerequisites are practical life lessons and skills; sensorial and related language lessons and skills; and an understanding of reality and factual concepts.

### § 1. Definitions and substitutions.

A. The terms used in these regulations, except as otherwise defined herein, shall be in accordance with the definitions contained in § 63.1-195 et seq. of the Code of Virginia relating to the regulation of child day centers and Minimum Standards for Licensed Child Day Centers Serving School Age Children (VR 175-09-01).

B. The following additional terms shall be used in administering the statute and regulation as described in subsection A of this section and substitutes for certain other terms in regulations of the Child Day-Care Council where applicable:

"Board" means the Virginia Board of Education and substitutes for Child Day-Care Council.

"Department" means the Virginia Department of Education and substitutes for Department of Social Services.

"Superintendent" means the Superintendent of Public Instruction and substitutes for Commissioner of the Virginia Department of Social Services or commissioner.

### § 2. Exemptions and exceptions.

A. Instructional programs offered by public schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act (IDEA), and extracurricular activities that are focused on single interests such as, but not limited to, music, drama, art, sports, or foreign languages are exempt from the requirements of these regulations.

B. Other exceptions to the requirements for accreditation may be made by the superintendent for cause which may include, but not be limited to, conflicts with state or federal statutes, or other board or federal regulations. The superintendent shall report to the board at least annually on exceptions made.

### § 3. Administration.

A. Child day centers operated by local school boards shall be accredited by the board when the center meets or exceeds requirements established by the Child Day-Care Council in Minimum Standards for Licensed Child Day Centers Serving School Age Children (VR 175-09-01).

B. Regulation of programs operated in accordance with standards described in subsection A of this section shall be the responsibility of the board. The Department of Education shall be responsible for the administration of the regulations. ]

VA.R. Doc. No. R95-294; Filed February 14, 1995, 12:30 p.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**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 Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 460-10-2600. Deduction of Incurred Medical Expenses in Determining Countable Income (Spendedown).

**Statutory Authority:** § 32.1-325 of the Code of Virginia and 42 CFR 435.831.

**Effective Date:** April 30, 1995.

**Summary:**



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The purpose of this action is to promulgate state regulations concerning the determination of countable income in determining Medicaid eligibility for medically needy individuals to conform with the new federal regulations. This regulatory package contains only the features of spenddown policy that are federally mandated. Federal regulations do allow for optional policies, which DMAS will promulgate separately.

Section 1902(a)(10)(C) of the Social Security Act governs the eligibility provisions to provide coverage to medically needy individuals. The "medically needy" option allows states to provide Medicaid to individuals and families who have more income and, in some instances, more countable resources, than allowed for Medicaid eligibility under the mandatory or optional categorically needy groups in § 1902(a)(10)(A) of the Social Security Act. A feature of this option is that an individual or family having income in excess of a state's prescribed income standard can reduce excess income to establish Medicaid eligibility by incurring medical and remedial care expenses (called spenddown). Virginia Medicaid has covered medically needy individuals since January 1, 1970.

On January 12, 1994, the Health Care Financing Administration published final regulations regarding the rules to be used by states when determining countable income by deducting from income the incurred expenses for medical and remedial services. The new regulations differ from prior federal requirements in two significant ways.

1. Projection of expenses at the Medicaid rate rather than the private pay rate. Present policy permits the deduction of expenses (both projected and actually incurred) for services that can be anticipated, like those for nursing facility care. Present policy requires that these expenses be projected at the private pay rate. The new federal regulations still permit the projection of expenses, but limit them to expenses for long-term institutional services and require that the amount projected be set at the Medicaid per diem rate rather than the private pay rate.

2. Deduction of current payments other than unpaid balances of old bills. The present policy requires that all incurred expenses that remain a current liability of the applicant, no matter how old the expenses, be deducted unless they have been used in establishing eligibility in a prior budget period. New policy no longer permits that. Instead, the new federal regulations specify that, in certain circumstances, only current payments on old bills incurred prior to the current budget period can be deducted from income. The new regulations prohibit carrying forward bills incurred in a retroactive or prospective budget period to future periods unless the individual has been eligible for Medicaid in each subsequent budget period. If there are intervening budget periods in

which the individual did not establish eligibility, the total unpaid balance of incurred bills from prior periods cannot be carried forward.

The primary objective of these revisions is to give states greater flexibility to reasonably administer their Medicaid programs and to ensure that eligibility is appropriately based on need.

## Issues:

1. Projection of expenses at the Medicaid rate rather than the private pay rate.

**Advantages:** This policy change will result in more accurate deductions of medical expenses. The spenddown rules in § 1902(a)(17) of the Social Security Act provide for reducing income by deducting "incurred" expenses, that is, expenses for which the individual is actually liable. The United States Secretary of Health and Human Services is not required to allow deduction of projected expenses before they are actually incurred. However, she has permitted states to project expenses because such projection may be necessary for the efficient operation of the Medicaid program. When the higher private pay rate is used to project expenses, Medicaid eligibility may be established earlier and the individual's actual liability may never be incurred. If this were to happen, Medicaid payments might be made incorrectly for a person whose excess income had not actually been reduced by the projected amount. To avoid this incorrect payment, states would be required to implement complicated reconciliation procedures to assure no incorrect payments were made. Using the Medicaid rate to project expenses avoids these problems.

This new policy does not absolve states of tracking actual incurred expenses and adjusting eligibility entitlement accordingly in order to avoid either overstatement or understatement of individual liability. It does permit states to allot all of the spenddown liability to nursing facility bills, for example, and have Medicaid pay for all other covered services directly. Since the nursing facility patient is required to pay a portion of his income to the nursing facility under the requirements for the post-eligibility treatment of income, permitting the nursing facility to discharge his spenddown obligation in this manner is less disruptive for the long-term care patient and is simpler to administer.

**Disadvantages:** This policy change will have a significant impact on those medically needy individuals whose income is greater than the Medicaid per diem rate for the nursing facility in which they reside but is less than the private pay rate. Currently, these individuals are considered eligible for Medicaid because deduction of their projected medical expenses for nursing facility care at the private pay rate

reduces their income to a level below the monthly medically needy minimum income level (MNIL). The private pay rate is related to charges and is usually significantly higher than the Medicaid per diem rate, which is calculated based upon allowable costs (not charges) up to predetermined ceilings. Individuals whose monthly income is above the Medicaid monthly rate may still establish eligibility but only after deduction of expenses actually incurred. This may delay eligibility.

## 2. Deduction of current payments rather than the unpaid balances of old bills.

**Advantages:** This change will also have a significant impact on the eligibility of individuals who have large unpaid medical bills incurred prior to the present budget period. They can deduct only current payments, not outstanding balances on old bills if they do not establish eligibility in each succeeding budget period. The rationale of the Health Care Financing Administration in changing this requirement is based on the intent of § 1902(a)(17) of the Social Security Act. An individual's income for purposes of Medicaid eligibility should be reduced to cover the costs of his uncovered medical care since, if the individual spends this income on medical care, he will not have that income available for maintenance needs. However, if the individual does not pay the old bills, the individual's income has not been reduced by the amount of a liability which the individual may never satisfy. To give an individual a lifetime opportunity to reduce income for each unpaid bill encourages individuals to forgo making payment on their liability for medical care. The regulation minimizes this disincentive to pay old bills. (Federal Register, January 12, 1994, page 1667)

**Impact:** There are no localities which are uniquely affected by these regulations as they apply statewide.

## 1. Projection of expenses at the Medicaid rate rather than the private pay rate.

It is estimated that 414 institutionalized individuals each month are eligible for Medicaid only as medically needy. These are individuals whose income is above the income limit for institutionalized categorically needy individuals. From that 414, it is estimated that 360 will remain eligible as medically needy by deducting projected institutional costs at the Medicaid rate. Fifty-three individuals who are now eligible because their projected nursing facility charges are being deducted from their monthly incomes will be affected by these regulations. Under the amended spenddown regulations, these individuals will not be eligible until they have incurred actual expenses equal to their excess income.

These figures were estimated by reviewing claims submitted to the department to identify those cases in

which the patient incomes exceeded the categorically needy income limit and which also exceeded the projected average Medicaid per diem payment for nursing homes for FY 1995.

## 2. Deduction of current payments rather than the unpaid balances of old bills.

The department does not have access to case information upon which to project a cost impact accurately. No centralized record of the bills submitted by applicants to local eligibility workers to meet their spenddown obligations is kept. However, it is estimated that this change will not affect very many individuals. Most individuals meet their spenddown with bills incurred during the current budget period. If they have old bills, they will still be able to deduct these incurred obligations in the retroactive period and in the first budget period following application and they will be able to use these bills in each subsequent budget period in which they meet their spenddown. Only if their bills, both old and new, fail to meet the spenddown will they be unable to deduct the full balance of their old bills. In every case they will be able to deduct any current payments on old bills.

**Agency Contact:** Victoria P. Simmons, or Roberta J. Jonas, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850. There may be a charge for copies.

VR 460-10-2600. Deduction of Incurred Medical Expenses in Determining Countable Income (Spenddown).

## § 1. Definitions.

"AFDC" means Aid to Families with Dependent Children.

"Applicable disregards" means the amounts that would be deducted in determining eligibility under AFDC for families and under SSI for aged, blind and disabled recipients.

"Available income" means the earned and unearned income used in determining the financial eligibility of a medically needy individual.

"Budget period" means a prospective period of time during which an individual's income is calculated to determine eligibility.

"Budget unit" means a subunit of the family unit which is used in calculating countable income and resources when deeming of income and resources between family members would violate the Social Security Act.

"Countable income" means, for the medically needy, the amount of an applicant's income measured against the medically needy income level (MNIL). Countable income

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is determined by deducting the following amounts from reported gross income:

1. For individuals under age 21 and caretaker relatives, amounts that would be deducted in determining eligibility under the state's AFDC plan, except for those prohibited under Title XIX of the Social Security Act.

2. For aged, blind, or disabled individuals, amounts that would be deducted in determining eligibility under SSI and (i) any SSI benefits, (ii) any auxiliary grant, and (iii) other deductions from income applied under the Medicaid plan. This figure is measured against the income level for Medicaid eligibility.

"Expenses covered in the plan" means expenses for services included in the State Plan for Medical Assistance including those that exceed agency limitations on amount, duration or scope of services.

"Expenses not covered in the plan" means expenses for necessary medical and remedial services recognized under state law but not covered under the State Plan for Medical Assistance.

"Excess countable income" means the amount of income to be applied toward incurred medical expenses and is determined by subtracting the MNIL from the countable income.

"Family unit" consists of all individuals listed on the application form as living in the household and among whom legal responsibility under state law exists.

"Financially responsible relative" means a spouse or parent whose income is actually used in determining eligibility.

"Incurred expenses" means medical or remedial services:

1. Which are recognized under state law;
2. Which are rendered to an individual, family, or financially responsible relative;
3. For which the individual is liable in the current accounting period or was liable in the three-month retroactive period; and
4. Which are not subject to payment by any liable third party.

An expense for medical or remedial service is an incurred expense from the beginning of the accounting period in which the liability arises until the end of the accounting period in which the liability is satisfied.

"Institutionalized individual" means an individual residing in a long-term care institution or covered under a

home and community-based waiver for 30 consecutive days.

"Liable third party" means any individual, entity or program that is or may be liable to pay all or part of the cost of medical or remedial treatment for injury, disease, or disability of an applicant or recipient of Medicaid.

"Medically needy income level" or "MNIL" means the income standard established to determine the eligibility of medically needy individuals and families.

"Old bills" means medical or remedial care expenses incurred prior to the initial application month and the application's retroactive period, and which were not deducted from (counted in) any previous spenddown that was met.

"Projected expenses" means expenses for services that have not yet been incurred but are reasonably expected to be.

"Service dates" means dates of incurred medical expenses.

"Spenddown" means the process through which countable income is compared to the MNIL for the budget period and incurred medical and remedial care expenses are deducted from income in excess of the MNIL.

"Spenddown liability" means amounts by which countable income exceeds MNIL for the budget period.

"SSI" means Supplemental Security Income.

"State or territorial public program" means a program that is operated (i.e., administratively controlled) by a state or territory (including a political subdivision thereof).

"State or territorially-financed program" means a state or territorial public program whose funding, except for deductibles and coinsurance amounts required from program beneficiaries, is either:

1. Appropriated by the state or territory directly to the administering agency, or
2. Transferred from another state or territorial public agency to the administering agency.

## § 2. Income eligibility.

A. Individuals and families who otherwise meet the medically needy eligibility requirements, but who have income in excess of the medically needy limit, shall be ineligible for medical assistance unless the excess income is insufficient to meet the total cost of needed medical care and the cost of incurred medical or remedial care recognized under state law has been deducted from excess income.

B. Spenddown applies only to the medically needy. Individuals must meet the medically needy nonfinancial, property transfer and resource requirements in order to be placed on a spenddown.

C. An individual or family shall be determined to be income eligible when countable income is equal to or lower than the medically needy income level for the budget period or when countable income after deduction of specified medical and remedial care expenses is equal to or below the MNIL. Countable income shall be compared to the MNIL for the budget period and incurred medical and remedial care expenses shall be deducted from income in excess of the MNIL.

D. An applicant having income in excess of the MNIL shall be advised that medical expenses incurred prior to the month of application count toward meeting the spenddown if the following conditions are met:

1. The applicant is legally liable to pay the expense.
2. A claim for the expense was submitted to the liable third parties and the applicant provides evidence of the third parties' denial of payment or amount of payment made by the third parties for the expense. Only that portion of the expense which is the applicant's legal responsibility (not the liability of any third party) shall be deducted from countable income.

### 3. Spenddown calculation.

A. When countable income exceeds the MNIL for the budget period, certain medical and remedial care expenses incurred by an individual, family or financially responsible relative that are not subject to payment by a third party unless the third party is a public program of a state or territory or political subdivision of a state or territory shall be deducted from countable income.

B. Medical and remedial care expenses paid by a public program (other than a Medicaid program) of a state or territory shall be deducted from countable income. Once countable income is reduced (by applying these deductions) to an amount equal to the MNIL, the individual or family shall be income eligible.

C. Reasonable measures to determine the legal liability of third parties to pay for incurred expenses shall be taken. However, eligibility determination shall not be forestalled simply because third party liability cannot be ascertained or payment by the third party has not been received.

D. The time standards for reaching decisions on Medicaid eligibility must be met when determining eligibility through spenddown: 90 days for applicants who apply on the basis of disability and 45 days for all other applicants. These limits shall apply for receipt of third party payment or verification of third party intent to pay in order to determine deductible expenses under

spenddown. Efforts to determine the liability of a third party shall continue through the last day of this period. If information regarding third party liability is not received by this date, eligibility must be established based upon the information available.

E. If the amount subject to payment by a third party cannot be determined based on information available, the bill in question to which the third party liability applies cannot be used in determining the spenddown. However, if information becomes available at a later date, the spenddown shall be recalculated and the effective date of eligibility revised.

### § 4. Required deductions based on kinds of services.

In determining incurred medical expenses to be deducted from income, the medical or remedial care expenses listed below that are not subject to payment by a third party shall be deducted from countable income. Such deductions are allowable even if the expenses are paid by a public program (other than the Medicaid program) of a state or territory if the program is financed by the state or territory.

1. Expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, including enrollment fees, copayments, or deductibles imposed by the State Plan for Medical Assistance.
2. Expenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services that are recognized under state law but are not included in the State Plan for Medical Assistance.
3. Expenses incurred by the individual or family or by financially responsible relatives for necessary medical and remedial services included in the State Plan for Medical Assistance including those that exceed agency limitations on amount, duration and scope of services.

### § 5. Required deductions based on the age of bills.

In determining incurred medical expenses to be deducted from income, the agency must include the following:

1. For the retroactive budget period for medical assistance (the three months prior to the month of application), on expenses incurred during such period, whether paid or unpaid and "old bills" (unpaid expenses which remain a liability to the individual incurred prior to the period), to the extent that the expenses have not been deducted previously in establishing eligibility;
2. For the first prospective budget period, expenses incurred during such budget period and any of the three preceding months, whether paid or unpaid, to the extent that the expenses have not been deducted

# Final Regulations

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previously in establishing eligibility;

3. Current payments (that is, payments made in the current budget period) on expenses incurred before the current budget period and not previously deducted from income in any budget period in establishing eligibility for such period; and

4. If the individual's eligibility for medical assistance was established in each such budget period preceding the current budget period, expenses incurred before the current budget period but not previously deducted from income in establishing eligibility, to the extent that such expenses are unpaid and are:

a. Described in § 4; and

b. Carried over from the preceding budget period or periods because the individual had a spenddown liability in each such preceding period that was met without deducting all such incurred, unpaid expenses.

## § 6. Projection of expenses.

Medical and remedial care expenses that are not for institutional care services (excluding acute care facility services) shall not be projected. For example, insurance premiums are not an institutional service, therefore, such expenses shall not be projected. Nor shall expenses that are included in a prepaid package of services be deducted prior to the date the services are rendered (e.g., charges for prenatal care and delivery services and orthodontia).

## § 7. Projection of institutional care expenses.

Institutional care expenses, except for expenses for services rendered in an acute care facility, shall be projected. The amount of the projected expenses shall be based on the Medicaid per diem rate or a combination of actual incurred institutional expenses and projected expenses at the Medicaid per diem rate. Projection of institutional care expenses does not preclude deduction of actually incurred expenses and in some instances requires the use of a combination of actually incurred expenses and projected expenses. Those circumstances are:

1. When the projected institutional care expense is less than the individual's spenddown liability for the budget period; and

2. When there is current liability for bills from a period prior to the current retroactive and prospective budget periods. A bill written off as a bad debt is not a current liability.

## § 8. Reserved.

## § 9. Individuals and families with income below the MNIL.

Cases which have only regular recurring income that is

below the MNIL do not have to spenddown to become income eligible. Such cases shall be maintained in the same manner as categorically needy cases; however, effective the month that income exceeds the MNIL or the first month following the timely notification period, the case must be treated as all other spenddown cases. When a monthly budget period is used, increases in income shall be counted beginning the month the change occurs, unless a Medicaid card has already been issued for that month and a change in circumstances occurs too late in the month to provide "timely" notice under 42 CFR 435.919 prior to suspending Medicaid benefits.

## § 10. Reserved.

## § 11. Reconciliation.

At the end of the first prospective budget period and any subsequent prospective budget period, or if earlier when any significant change occurs, the agency must reconcile any projected amounts with the actual amounts incurred, or with changes in circumstances to determine if the adjusted deduction of incurred expenses reduces countable income to the income standard.

## § 12. Eligibility.

Except as provided in § 11, an individual is eligible on the first day of the month in which spenddown liability is met. However, expenses used to meet spenddown liability are not reimbursable under Medicaid. The amount paid by Medicaid will be reduced to the extent necessary to prevent the transfer of an individual's spenddown liability to the Medicaid program.

## § 13. Spenddown entitlement.

A. When excess income has been spent or incurred, the applicant must request reinstatement of his application, submitting the "Record of Medical Expenses - Medicaid" together with bills or receipts for medical services either paid or incurred, and evidence of third party payment or denial of payment if applicable. No new application form is completed at that time. If there has been no change which renders him ineligible, he becomes eligible for the remainder of the six-month period.

B. The request for reinstatement must be processed in the same manner as an application, with notice to the client of the disposition of his request.

## § 14. Qualified Medicare beneficiaries.

A. When an enrolled medically indigent Medicare beneficiary meets the medically needy spenddown, he continues to be eligible for Medicaid as a Qualified Medicare Beneficiary (QMB) but is also eligible for Medicaid as medically needy beginning the date the spenddown was met, and ending the last day of the six-month spenddown period.

B. No new application for QMB shall be required to continue entitlement as a QMB at the end of the budget period; however, the individual must file a new application in order for eligibility for full Medicaid benefits in subsequent budget periods.

§ 15. Retroactive spenddown; countable income; entitlement date.

A. Eligibility for retroactive Medicaid entitlement must be determined in all cases in which an individual reports receiving a Medicaid-covered service during the three-month period prior to the month of application, whether the individual is applying for Aid to Families with Dependent Children, auxiliary grant or Medicaid. Eligibility for retroactive coverage shall be determined at the same time as the ongoing eligibility is determined, using the same application.

B. The amount of countable income available to the applicant's family or budget unit is determined for the three-month period prior to application if none of the three months was included in a prior Medicaid coverage or spenddown period, and all other eligibility factors were met. Countable income for the period shall be applied to the appropriate income limit for the period (one-fourth the annual income limit).

If any of the months in the retroactive period were included in a previous coverage or spenddown period, those months cannot be included in the retroactive period. Only the income received in the retroactive months not included in previous periods are counted in determining retroactive eligibility. Countable income is applied to the appropriate income limit for the number of months actually included in the retroactive period.

C. When the retroactive spenddown is met by medical expenses incurred before the retroactive period, eligibility will begin the first day of the retroactive period.

When the retroactive spenddown is met by expenses incurred during the retroactive period, eligibility will begin the date the spenddown was met.

Eligibility will exist for the remainder of the retroactive period.

When the spenddown is not met, retroactive eligibility does not exist.

If an applicant states that a covered service was received in any one of the three retroactive months, eligibility is to be determined for all three retroactive months, regardless of the service date.

D. The Medicaid application shall be processed to determine both retroactive and prospective Medicaid eligibility beginning with the month of application. Notice of both determinations must be provided in written form to the applicant.





COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION  
General Assembly Building

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

February 27, 1995

Mr. Robert C. Metcalf, Director  
Department of Medical Assistance Services  
600 East Broad Street, Suite 1300  
Richmond, Virginia 23219

Re: VR 460-10-2600 Deduction of Incurred Medical Expenses in  
Determining Countable Income (Spendedown)

Dear Mr. Metcalf:

This will acknowledge receipt of the above-referenced regulations from the Department of Medical Assistance Services.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law. However, this determination is premised on the assumption that both the Attorney General's Office and HCFA approve the content as complying with the relevant law.

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith  
Registrar of Regulations

JWS/jbc



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# STATE CORPORATION COMMISSION

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## PROPOSED REGULATIONS

### STATE CORPORATION COMMISSION

Title of Regulation: VR 225-01-0205. Trust Company Regulations.

Statutory Authority: §§ 6.1-32.26 and 12.1-13 of the Code of Virginia.

AT RICHMOND, FEBRUARY 13, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI950099

Ex Parte: In the matter of adopting regulations to implement the Trust Company Act

#### ORDER DIRECTING NOTICE

Virginia Code § 6.1-32.26 provides that the Commission may promulgate such regulations as it deems appropriate to effect the purposes of the Trust Company Act, Article 3.2 (§ 6.1-32.11 et seq.) of Chapter 2 of Title 6.1 of the Code of Virginia. The Bureau of Financial Institutions has proposed for adoption by the Commission a regulation, entitled "Trust Company Regulations," (Virginia Regulation 225-01-0205), which is attached as Attachment A to this Order.

IT APPEARING that interested parties should be afforded notice of the proposed regulation and an opportunity to be heard in the matter of their adoption,

#### IT IS ORDERED:

(1) That this matter be assigned Case No. BFI950099 and papers relating to this matter be filed therein;

(2) That on or before April 3, 1995, any interested person may submit comments in support of, or in opposition to, the Commission's adoption of the "Trust Company Regulations" to the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216;

(3) That on or before April 3, 1995, any interested party who desires a hearing on the proposed regulation shall file with the Clerk, at the above address, a written request for a hearing. All comments and requests for a hearing shall make reference to Case No. BFI950099;

(4) That this Order and Attachment A shall be sent forthwith to the Registrar of Regulations for appropriate publication in the Virginia Register; and

(5) That the Bureau of Financial Institutions send a

copy of this Order and the proposed regulation to every trust company authorized to engage in business in Virginia, and furnish such copies to other interested parties.

This Order and the regulation entitled "Trust Company Regulations" (VR 225-01-0205) shall be available for inspection at, or distribution from, the Commission's Document Control Center, Tyler Building, First Floor, 13th and Main Streets, P.O. Box 2118, Richmond, Virginia 23216, telephone (804) 371-9033.

ATTESTED COPIES hereof shall be sent to the Bureau of Financial Institutions and the Office of General Counsel.

#### ATTACHMENT A.

VR 225-01-0205. Trust Company Regulations.

#### § 1. Definitions.

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

"Affiliate" means generally a person that directly or indirectly controls, is controlled by, or is under common control with another person. In addition, for purposes of the Trust Company Act, Article 3.2 (§ 6.1-32.11 et seq.) of Chapter 2 of Title 6.1 of the Code of Virginia, a broker-dealer, investment advisor, or investment company is an affiliate of a trust company if a trust company holding company controls the trust company and owns, directly or indirectly, 5.0% or more of any class of the capital stock of the broker-dealer, investment advisor, or investment company.

"Affiliated trust company" means a trust company that is controlled by a trust company holding company. For purposes of the Act, a trust company holding company or other person has control of a trust company or other legal entity if the person owns 25% or more of the voting stock of the trust company or entity; if, pursuant to the definition of control in the Bank Holding Company Act of 1956 (12 U.S.C. § 1841 et seq.), the person would be presumed to control the trust company or entity; or if the commission determines that the person exercises a controlling influence over the management and policies of the trust company or entity.

"Broker-dealer" means any person selling any type of security other than an interest or unit in a condominium as defined in subdivision (c) of § 55-79.2 of the Code of Virginia or cooperative housing corporation for the account of others or for his own account otherwise than with or through a broker-dealer or agent, but does not include a bank, a trust subsidiary formed under Article 3.1 (§ 6.1-32.1 et seq.) of Chapter 2 of Title 6.1 of the Code of Virginia, an issuer or an agent.

"Bureau" means the Bureau of Financial Institutions of the State Corporation Commission.

"Commission" means the State Corporation Commission.

"Trust company" means a corporation, including an affiliated trust company, authorized to engage in the trust business under Article 3.2 (§ 6.1-32.11 et seq.) of Chapter 2 of Title 6.1 of the Code of Virginia with powers expressly restricted to the conduct of general trust business.

"Trust company holding company" means a corporation which owns, directly or indirectly, 5.0% or more of any class of capital stock of a broker-dealer, investment advisor, or investment company and which also controls a trust company.

## § 2. Preliminary statement; responsibility of the board of directors; meetings of the board.

The board of directors of a trust company shall be composed of individuals who are qualified by character and business experience to direct the affairs of a corporate fiduciary. The board shall be responsible for directing the affairs of the company in accordance with general principles of law relating to trusts and fiduciaries, Virginia statutory and common law, and other applicable laws and regulations.

The board of directors shall hold a meeting at least once in each calendar month, unless at the request of a trust company the commission allows, for cause, less frequent meetings. A majority of the board must be present for the lawful transaction of business. However, the stockholders may fix, by bylaw, a number not less than five as a quorum.

## § 3. Composition of affiliated trust company board; prohibitions on dual service.

A majority of the board of directors of an affiliated trust company shall consist of members who are neither directors nor officers of any other single affiliate of the trust company.

A director, officer, or employee of a trust company holding company or any affiliate of an affiliated trust company may not serve at the same time as an officer, director, or employee of the trust company, if such individual's employment responsibilities include (i) the solicitation, sale or trading of securities; (ii) the selection of portfolio managers; (iii) the performing of investment advisory services; (iv) responsibilities similar to those listed in (i), (ii), or (iii); or (v) supervision of one or more persons having such responsibilities.

A person who is an agent, broker-dealer, investment advisor, or investment advisor representative shall not serve as an officer or director of a trust company that is not an affiliated trust company.

## § 4. Reports of condition; annual audits.

Trust companies and trust company holding companies

shall submit to the bureau statements of their financial condition at such times as the bureau may require. Such statements shall be made in accordance with forms prescribed by the bureau, certified under oath, and attested by at least three directors. The bureau shall call upon all such trust companies and trust company holding companies doing business in Virginia to file these statements. The bureau may require any trust company or trust company holding company to prepare and submit such other reports and material as the bureau deems necessary to protect or promote the public interest.

The board of directors of a trust company shall cause to be made an annual audit of the trust company. The audit shall be performed by a qualified, independent auditor. A separate report, containing a management letter, shall be required and submitted to the bureau in a timely manner.

## § 5. Insurance required.

In addition to the surety bond required by § 6.1-32.17 of the Code of Virginia, a trust company shall maintain insurance coverage that, in kind and amount, provides adequate protection against the risks of the business. The coverage may be provided through the holding company of an affiliated trust company.

## § 6. Investments.

A trust company may invest its capital funds in the investments permitted by law for state banks; it shall reasonably diversify the investment of such funds.

## § 7. Loans to certain persons prohibited.

A trust company shall not make loans or otherwise extend its capital funds to an officer, director, or employee of the trust company, its holding company, and its affiliates.

## § 8. Delegation of trust functions; confidentiality.

A trust company, as trustee, is responsible to settlors and beneficiaries of trusts for carrying out the terms of trust agreements. This responsibility remains with the company regardless of any arrangement that may place one or more trust functions (e.g., administration, custody, investment advice, investment management) with a third party. The trust company must retain sufficient control of trust accounts to be able to meet its responsibilities.

In instances where investment discretion, i.e., the authority to determine what securities or other property shall be bought or sold for an account, is delegated to an affiliate of a trust company, the affiliate must be named by the settlor in the trust agreement. The trustee may advise the settlor in selecting such affiliate, and shall review its performance periodically and advise the settlor whether it is in the best interest of the trust to continue the delegation of investment discretion to such affiliate.

# State Corporation Commission

A trust company shall preserve the confidentiality of customers' financial information and shall not disclose such information without the consent of the customer.

§ 9. Trust administration as individual, receipt of income from licensed activities prohibited.

An officer or employee of a trust company may not accept or administer, as an individual, any trust account, unless the board of directors approves and monitors the arrangement. While employed by a trust company or receiving remuneration therefrom, an officer or employee of a trust company may not engage in a licensed activity and receive commissions, fees, or other income from such activity.

§ 10. Securities advice prohibited; exception.

An affiliated trust company may not express an opinion as to the advisability of purchasing any security underwritten by an affiliate, or in which any affiliate makes a market, unless the affiliated trust company clearly discloses in writing that the trust company and the underwriting affiliate are under common ownership, that the affiliate is underwriting or dealing in the security, and that the affiliate has a financial interest in the sale of the security, which interest shall be described.

§ 11. Agency or marketing activity prohibited.

An affiliated trust company may not act as agent for, or engage in any marketing activity on behalf of, its holding company or any affiliate of the trust company. An affiliated trust company may not distribute any prospectus or other sales literature relating to a particular security, and may not make any such information available at an office of the trust company.

§ 12. Services by affiliate.

When a service is provided to a trust account by an affiliate of a trust company, the service must be allowed under the terms of the governing instrument, by a court or by law, and must be justified by readily available documents relating to the specific account.

§ 13. Referral of securities transactions.

An affiliated trust company may not direct to an affiliated broker-dealer the compensation-producing securities transactions of a trust account, unless:

1. Such action is authorized by the account settlor, the beneficiaries, or a court (depending on the circumstances) by specific written consent or authorization obtained after disclosure of the relationship and the terms of the arrangement;

2. Use of the affiliated broker-dealer is in the best interest of the account;

3. In the case of employee benefit trusts, a reasoned opinion of counsel is obtained to the effect that the proposed use does not violate the Employee Retirement Income Security Act of 1974 (29 USC § 1001 et seq.); and

4. The trust company has established adequate safeguards against potential abuses (e.g., "churning").

§ 14. Purchases from affiliate prohibited; exceptions; terms.

Section 6.1-32.14:2 of the Code of Virginia provides that an affiliated trust company may not, during the underwriting period, purchase from an affiliated broker-dealer any security that is being underwritten by that broker-dealer.

Outside the scope of § 6.1-32.14:2 of the Code of Virginia, an affiliated trust company may not purchase any security or other property from an affiliate, except as authorized by a provision of a governing trust instrument, by a court, or in accordance with specific permission given by law (e.g., § 26-44.1 of the Code of Virginia). Any such purchase from an affiliate shall be made at arm's length and on terms no less stringent than those that would apply in a transaction with an unrelated third party.

§ 15. Separate offices required.

An affiliated trust company shall maintain offices that are separate and clearly distinguishable from the offices of its holding company and every other affiliate of the trust company. If the offices of the trust company are in the same building with those of a broker-dealer affiliate, the trust company's offices shall be on a different floor from the offices of the broker-dealer.

VAR. Doc. No. R95-295; Filed February 14, 1995, 2:57 p.m.

\* \* \* \* \*

**Title of Regulation:** VR 225-01-1201. Surety Bond Required of Money Order Sellers and Money Transmitters.

**Statutory Authority:** §§ 6.1-378.1 and 12.1-13 of the Code of Virginia.

AT RICHMOND, FEBRUARY 15, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI950108

**Ex Parte:** In the matter of proposed amendments to rules relating to surety bonds of money order sellers

# State Corporation Commission

## ORDER DIRECTING NOTICE

Section 6.1-378.1 of the Code of Virginia authorizes the State Corporation Commission to promulgate rules and regulations to effect the purposes of Chapter 12 of Title 6.1 of the Code of Virginia. The Commission has promulgated such rules, and now proposes to amend those rules in order to implement provisions of Acts of Assembly of 1994 which required persons engaged in the business of money transmission to obtain licenses from the Commission.

It appears to the Commission that persons currently licensed to sell money orders and others should be afforded notice of the proposed amendments and an opportunity to be heard in this matter. Accordingly,

### IT IS ORDERED:

(1) That this matter be assigned Case No. BFI950108, and associated papers be filed therein;

(2) That, on or before April 3, 1995, any person may file written comments in support of, or in opposition to, the Commission's adoption of the proposed amendments with the Clerk, State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216;

(3) That, on or before April 3, 1995, any person who desires a hearing on the proposed amendments shall file with the Clerk, at the above address, a written request for a hearing.

(4) That the Bureau of Financial Institutions shall publish the following notice once in the Virginia Register and mail a copy of said notice to all persons licensed as money order sellers:

### NOTICE OF PROPOSED REGULATION

Pursuant to Virginia Code § 6.1-378.1, the State Corporation Commission proposes to amend Virginia Regulation 225-01-1201, Surety Bond Standard Required of Money Order Sellers. The proposed amendments would extend the surety bond requirement to money transmitter licensees, authorize the Commissioner of Financial Institutions ("the Commissioner") to prescribe the form and amount of bond required without any maximum limit, and authorize the Commissioner to redetermine the amount of bond required from time to time on the basis of changed circumstances. The text of the proposed amendments can be either examined at or obtained from the Commission's Clerk, Document Control Center, 1st Floor, Tyler Building, 1300 East Main Street, P.O. Box 2118, Richmond, Virginia 23216. The Document Control Center may be contacted by telephone at (804) 371-9033.

Every person who desires to comment in favor of, or in opposition to, the proposed amendment should send written comments to the Clerk at the above address on or before April 3, 1995. Every person who desires a hearing on the

proposed amendment must file a written request for a hearing with the Clerk at the above address on or before April 3, 1995. Written comments and requests for a hearing must contain a reference to Case No. BFI950108.

AN ATTESTED COPY of this Order shall be sent to the Commissioner of Financial Institutions.

VR 225-01-1201. Surety Bond Required of Money Order Sellers and Money Transmitters.

### § 1. Surety bond standards.

1. A. Every seller of money orders and every money transmitter shall be bonded in a principal amount as follows: determined by the Commissioner of Financial Institutions. The commissioner's determination shall be based upon the person's or company's financial condition, actual or projected business volume, and other factors deemed pertinent. The commissioner may redetermine the amount of bond required from time to time based upon changed circumstances.

1 office .....	\$ 25,000
Each additional office .....	\$ 5,000
Maximum bond required .....	\$250,000

2. B. The form of the bond will be prescribed and provided by the Bureau commissioner.

3. C. Evidence of an appropriate The required bond shall be submitted prior to the issuance of a license, and shall be maintained continuously thereafter as long as the money order seller or money transmitter has money orders outstanding or unfulfilled money transmission agreements.

4. The seller must continuously maintain its bond thereafter as long as it has money orders outstanding, and for a reasonable period after any termination of business. In any case where a bond of less than \$250,000 is maintained, it shall be the duty of the licensee to keep the amount of the bond commensurate with the number of offices.

By order of the State Corporation Commission dated November 13, 1987, effective that date.

VA.R. Doc. No. R95-296; Filed February 15, 1995, 10:30 a.m.

\* \* \* \* \*

Title of Regulation: VR 225-01-1601. Rules Governing Mortgage Lenders and Brokers.

Statutory Authority: §§ 6.1-421 and 12.1-13 of the Code of Virginia.

AT RICHMOND, FEBRUARY 15, 1995

# State Corporation Commission

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI950087

Ex Parte: In the matter of proposed amendment to rules promulgated under the Mortgage Lender and Broker Act

## ORDER DIRECTING NOTICE

Section 6.1-421 of the Code of Virginia authorizes the State Corporation Commission to promulgate rules and regulations to effect the purposes of the Mortgage Lender and Broker Act ("the Act"). The Commission has promulgated rules under the Act, and now proposes to amend those rules to require licensees under the Act to maintain separate escrow accounts for certain purposes.

It appears to the Commission that licensees under the Act and others should be afforded notice of the proposed amendment and an opportunity to be heard in the matter. Accordingly,

### IT IS ORDERED:

(1) That this matter be assigned Case No. BFI950087, and associated papers be filed therein;

(2) That, on or before April 3, 1995, any person may file written comments in support of, or in opposition to, the Commission's adoption of the proposed amendment with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216;

(3) That, on or before April 3, 1995, any person who desires a hearing on the proposed amendment shall file with the Clerk, at the above address, a written request for a hearing.

(4) That the Bureau of Financial Institutions shall publish the following notice once in the Virginia Register and mail a copy of said notice to all licensees under the Act:

### NOTICE OF PROPOSED REGULATION

Pursuant to Virginia Code § 6.1-421, the State Corporation Commission proposes to amend Virginia Regulation 225-01-1601, Governing Mortgage Lenders and Brokers. The proposed amendment would require licensees under the Mortgage Lender and Broker Act to deposit monies received from mortgage loan applicants for fees paid to third parties in an escrow account in a bank, savings institution or credit union segregated from other funds of the licensee. The text of the proposed amendment can be either examined at or obtained from the Commission's Clerk, Document Control Center, 1st Floor,

Tyler Building, 1300 East Main Street, P.O. Box 2118, Richmond, Virginia 23216. The Document Control Center may be contacted by telephone at (804) 371-9033.

Every person who desires to comment in favor of, or in opposition to, the proposed amendment should send written comments to the Clerk at the above address on or before April 3, 1995. Every person who desires a hearing on the proposed amendment must file a written request for a hearing with the Clerk at the above address on or before April 3, 1995. Written comments and requests for a hearing must contain a reference to Case No. BFI950087.

AN ATTESTED COPY of this Order shall be sent to the Commissioner of Financial Institutions.

VR 225-01-1601. Rules Governing Mortgage Lenders and Brokers.

### § 1. Definitions.

As used in this Regulation: The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

1. The terms "mortgage lender", "mortgage broker" and "mortgage loan" have the meaning ascribed to them in Section 6.1-400 of the Code of Virginia.

2. The term "commitment" "Commitment" means a written offer to make a mortgage loan signed by a mortgage lender, or by another person authorized to sign such instruments on behalf of a mortgage lender.

3. The term "commitment agreement" "Commitment agreement" means a commitment accepted by an applicant for a mortgage loan, as evidenced by the applicant's signature thereon.

"Commitment fee" means any fee or charge accepted by a mortgage lender, or by a mortgage broker for transmittal to a mortgage lender, as consideration for binding the mortgage lender to make a mortgage loan in accordance with the terms of the commitment or as a requirement for acceptance by the applicant of a commitment, but the term does not include fees paid to third persons or interest.

4. The term "fees" "Fees paid to third persons" means the bona fide fees or charges paid by the applicant for a mortgage loan to third persons other than the mortgage lender or mortgage broker or paid by the applicant to or retained by the mortgage lender or mortgage broker for transmittal to such third persons in connection with the mortgage loan, including, but not limited to, recording taxes and fees, reconveyance or releasing fees, appraisal fees, credit report fees, attorney fees, fees for title reports and title searches, title insurance premiums, surveys and similar charges.

5. The term "commitment fee" means any fee or charge accepted by a mortgage lender, or by a mortgage broker for transmittal to a mortgage lender, as consideration for binding the mortgage lender to make a mortgage loan in accordance with the terms of the commitment or as a requirement for acceptance by the applicant of a commitment, but the term does not include fees paid to third persons or interest.

6. The term "lock-in agreement" "Lock-in agreement" means a written agreement between a mortgage lender and an applicant for a mortgage loan which establishes and sets an interest rate and the points to be charged in connection with a mortgage loan that is closed within the time period specified in the agreement. A lock-in agreement can be entered into before mortgage loan approval, subject to the mortgage loan being approved and closed, or after such approval. A commitment agreement which establishes and sets an interest rate and the points to be charged in connection with a mortgage loan that is closed within the time period specified in the agreement is also a lock-in agreement. The interest rate that is established and set by the agreement may be either a fixed rate or an adjustable rate.

7. The term "lock-in fee" "Lock-in fee" means any fee or charge accepted by a mortgage lender, or by a mortgage broker for transmittal to a mortgage lender, as consideration for making a lock-in agreement, but the term does not include fees paid to third persons or interest.

"Mortgage lender," "mortgage broker" and "mortgage loan" have the meaning ascribed to them in § 6.1-409 of the Code of Virginia.

8. The term "points" "Points" means any fee or charge retained or received by a mortgage lender or mortgage broker stated or calculated as a percentage or fraction of the principal amount of the loan, other than or in addition to fees paid to third persons or interest.

9. The term "reasonable" "Reasonable period of time" means that period of time, determined by a mortgage lender in good faith on the basis of its most recent relevant experience and other facts and circumstances known to it, within which the mortgage loan will be closed.

## H. § 2. Operating rules.

A licensee shall conduct its business in accordance with the following rules:

1. No licensee shall intentionally misrepresent the qualification requirements for a mortgage loan or any material loan terms or make false promises to induce an applicant to apply for a mortgage loan or to induce an applicant to enter into any commitment agreement or lock-in agreement or to induce an

applicant to pay any commitment fee or lock-in fee in connection therewith. A "material loan term" means the loan terms required to be disclosed to a consumer pursuant to (i) the federal Truth-in-Lending Act (15 USCA §§ 1601-1647), and regulations and official commentary issued thereunder, as amended from time to time, (ii) Section § 6.1-2.9:5 of the Code of Virginia, and (iii) Part III § 3 of these regulations.

2. All moneys received by a licensee from an applicant for fees paid to third persons shall be accounted for separately, and all disbursements for fees paid to third persons shall be supported by adequate documentation of the services for which such fees were or are to be paid. All such moneys shall be deposited in an escrow account in a bank, savings institution, or credit union segregated from other funds of the licensee.

3. The mortgagor who obtains a mortgage loan shall be entitled to continue to make payments to the transferor of the servicing rights under a mortgage loan until the mortgagor is given written notice of the transfer of the servicing rights by the transferor. The notice shall specify the name and address to which future payments are to be made and shall be mailed or delivered to the mortgagor at least ten (10) calendar days before the first payment affected by the notice.

4. If a person has been or is engaged in business as a mortgage lender or mortgage broker and has filed a bond or letter of credit with the commissioner, as required by Virginia Code Section § 6.1-413 of the Code of Virginia, such bond or letter of credit shall be retained by the commissioner notwithstanding the occurrence of any of the following events:

- (a) a. The person's application for a license is withdrawn or denied;
- (b) b. The person's license is surrendered, suspended or revoked; or
- (c) c. The person ceases engaging in business as a mortgage lender or mortgage broker.

## III. § 3. Commitment agreements and lock-in agreements.

A. A commitment agreement shall include the following:

- (a) 1. Identification of the property intended to secure the mortgage loan (this does not require a formal legal description);
- (b) 2. The principal amount and term of the loan;
- (c) 3. The interest rate and points for the mortgage loan if the commitment agreement is also a lock-in agreement or a statement that the mortgage loan will

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be made at the mortgage lender's prevailing rate and points for such loans at the time of closing or a specified number of days prior to closing;

(d) 4. The amount of any commitment fee and the time within which the commitment fee must be paid;

(e) 5. Whether or not funds are to be escrowed and for what purpose;

(f) 6. Whether or not private mortgage insurance is required;

(g) 7. The length of the commitment period;

(h) 8. A statement that if the loan is not closed within the commitment period, the mortgage lender is no longer obligated by the commitment agreement and any commitment fee paid by the applicant will be refunded only under the circumstances set forth in Section III.3 § 3 C of this regulation and such other circumstances as are set forth in the commitment agreement; and

(i) 9. Any other terms and conditions of the commitment agreement required by the lender.

## 2. B. A lock-in agreement shall include the following:

(a) 1. The interest rate and points for the mortgage loan, and if the rate is an adjustable rate, the initial interest rate and a brief description of the method of determining the rate (such as the index and the margin);

(b) 2. The amount of any lock-in fee and the time within which the lock-in fee must be paid;

(c) 3. The length of the lock-in period;

(d) 4. A statement that if the loan is not closed within the lock-in period, the mortgage lender is no longer obligated by the lock-in agreement and any lock-in fee paid by the applicant will be refunded only under the circumstances set forth in Section III.4 § 3 D of this regulation and such other circumstances as are set forth in the lock-in agreement;

(e) 5. A statement that any terms not locked-in by the lock-in agreement are subject to change until the loan is closed at settlement; and

(f) 6. Any other terms and conditions of the lock-in agreement required by the lender.

## 3. C. If an applicant has paid any commitment fee, and the mortgage loan is not closed due to any of the following, such commitment fee shall be refunded:

(a) 1. The commitment period was not a reasonable period of time given the prevailing market conditions

at the time the commitment agreement was entered into;

(b) 2. The mortgage loan is turned down because of the applicant's lack of creditworthiness;

(c) 3. The mortgage loan is turned down because of the appraised value of the property intended to secure the mortgage loan;

4. D. If an applicant has paid any lock-in fee and the loan is not closed because the lock-in period was not a reasonable period of time given the prevailing market conditions at the time the lock-in agreement was entered into, such lock-in fee shall be refunded.

VA.R. Doc. No. R95-297; Filed February 15, 1995, 10:29 a.m.

## FINAL REGULATION

\* \* \* \* \*

**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 State Corporation Commission will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 225-01-0001. Delegation of Certain Authority to the Commissioner of Financial Institutions.

**Statutory Authority:** §§ 12.1-13 and 12.1-16 of the Code of Virginia.

**Effective Date:** April 5, 1995.

**Agency Contact:** Copies of the regulation may be obtained from William Scutt or Jonathan Orne, State Corporation Commission, Office of General Counsel, P. O. Box 1197, Richmond, VA 23209, telephone (804) 371-9671. Copying charges are \$1.00 for the first two pages, and 50¢ for each page thereafter.

AT RICHMOND, JANUARY 23, 1995

CASE NO. BFI950037

## ADMINISTRATIVE ORDER DELEGATING CERTAIN AUTHORITY TO THE COMMISSIONER OF FINANCIAL INSTITUTIONS

Virginia Code § 12.1-16 provides (in part):

In the exercise of the powers and in the performance of the duties imposed by law upon the Commission with respect to insurance and banking, the Commission may delegate to such employees and agents as it may deem proper such powers and require of them, or a

# State Corporation Commission

of them, the performance of such duties as it may deem proper.

That statute provides further that the head of the Bureau through which the Commission administers the banking laws shall be designated "Commissioner of Financial Institutions."

The Commission has previously delegated various powers and duties to the Commissioner of Financial Institutions pursuant to this statute, and finds now that certain additional authority conferred upon the Commission under Title 6.1 of the Virginia Code should be delegated to the Commissioner of Financial Institutions in order to promote the efficient administration of said Title.

NOW THEREFORE, finding it lawful and proper to do so, the Commission hereby delegates to the Commissioner of Financial Institutions the authority to exercise its powers and to act for it in the following matters:

- (1) To grant or deny petitions relating to service by an individual as a director of more than one financial institution. (§ 6.1-2.7)
- (2) To grant a certificate of authority to a bank formed for the purpose of its being acquired under the provisions of Chapter 14 of Title 6.1, or for the purpose of facilitating the consolidation of banks or the acquisition by merger of a bank pursuant to any provision of Title 6.1. (§§ 6.1-13, 6.1-43)
- (3) To grant or deny authority to a bank, or to a trust subsidiary, to engage in the trust business or exercise trust powers. (§§ 6.1-16, 6.1-32.5)
- (4) To grant or deny authority to a bank or trust company to establish a branch office, or to relocate a main or principal office, or any branch office. (§§ 6.1-39.3, 6.1-32.21)
- (5) To grant approval for directors' meetings of a bank to be held less frequently than monthly. (§ 6.1-52)
- (6) To grant approval for the investing of more than fifty (50) percent of the aggregate amount of a bank's capital stock, surplus, and undivided profits in its bank building and premises; and to permit the payment of dividends while such investment exceeds 50 percent of capital, surplus, and undivided profits. (§ 6.1-57)
- (7) To consent to a bank's investment in more than one service corporation. (§ 6.1-58)
- (8) To give permission for the aggregate investment of more than fifty (50) percent of a bank's capital stock and permanent surplus in the stock, securities, or obligations of controlled-subsidary and bank service corporations. (§ 6.1-58.1)
- (9) To give written consent and approval for a bank to hold the possession of certain real estate for a longer period than ten (10) years. (§ 6.1-59(4))
- (10) To approve the issuance by a bank of capital notes and debentures, so that such notes and debentures may qualify as surplus for the purpose of calculating the legal lending limit of a bank. (§ 6.1-61)
- (11) To give written approval in advance for a bank or trust company to pledge its assets as security for certain temporary purposes. (§ 6.1-80)
- (12) To require any bank to prepare and submit such reports and material as he may deem necessary to protect and promote the public interest. (§ 6.1-93)
- (13) To approve the issuance of stock in a savings institution in exchange for property or services valued at an amount not less than the aggregate value of the shares issued. (§ 6.1-194.11, § 6.1-194.113)
- (14) To reduce temporarily the reserve requirements for a savings institution upon a finding that such reduction is in the best interest of the institution and its members. (§ 6.1-194.23)
- (15) To grant a certificate of authority to a savings institution formed solely for the purpose of facilitating the merger or acquisition of savings institutions pursuant to any provision of Title 6.1.
- (16) To grant or deny authority to a state association, a state savings bank or a foreign savings institution to establish a branch office, or other office or facility where deposits are accepted (§ 6.1-194.26, § 6.1-194.119), or to change the location of a main or branch office. (§ 6.1-194.28, § 6.1-194.121)
- (17) To cause a special examination of a savings institution to be made. (§ 6.1-194.84.1)
- (18) To grant or deny authority to a savings institution to exercise fiduciary powers. (§§ 6.1-195.77, et seq.; § 6.1-194.138)
- (19) To grant or deny approval to a credit union to maintain a service facility or office (other than a main office). (§ 6.1-225.20)
- (20) To approve the investment of credit union funds in certain stock, securities and other obligations. (§ 6.1-225.57(8))
- (21) To grant or deny authority to an industrial loan association to relocate its office. (§ 6.1-233)
- (22) To grant or deny licenses pursuant to Chapter 6 of Title 6.1. (§ 6.1-256.1)
- (23) To grant or deny permission to a consumer finance licensee to change the location of an office. (§ 6.1-269.1)



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(24) To grant or deny licenses to engage in the business of selling money orders or the business of money transmission, or both. (§ 6.1-371)

(25) To grant or deny licenses to operate non-profit debt counseling agencies. (§ 6.1-363.1)

(26) To grant or deny licenses to engage in business as a mortgage lender and/or mortgage broker. (§ 6.1-415)

(27) To grant or deny permission to a mortgage lender or mortgage broker licensee to relocate an office or open an additional office. (§ 6.1-416)

(28) To enter into cooperative agreements with appropriate regulatory authorities for the examination of out-of-state bank holding companies and their subsidiaries and out-of-state savings institution holding companies and their subsidiaries and for the accomplishment of other duties imposed on the Commission by Chapter 3.01, Article 11, and by Chapter 15 of Title 6.1.

(29) To prescribe the form and content of all applications, documents, undertakings, papers and information required to be submitted to the Commission under Title 6.1.

(30) To make all investigations and examinations, give all notices, and shorten, waive or extend any time period within which any action of the Commission must or may be taken or performed under Title 6.1.

In the performance of the duties hereby delegated to him, the Commissioner shall have the power and authority to make all findings and determinations permitted or required by law.

The foregoing delegations of authority shall be effective until revoked by order of the Commission. All actions taken by the Commissioner of Financial Institutions pursuant to the authority granted herein are subject to review by the Commission in accordance with the Rules of Practice and Procedure of the State Corporation Commission. Each delegation set forth in a numbered paragraph herein shall be severable from all others.

This order supersedes and revokes a certain order entitled "Administrative Order Delegating Certain Authority to the Commissioner of Financial Institutions" dated October 18, 1991.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions.

V.A.R. Doc. No. R95-281; Filed February 3, 1995, 11:19 a.m.

# MARINE RESOURCES COMMISSION

## MARINE RESOURCES COMMISSION

### EMERGENCY REGULATIONS

Title of Regulation: VR 450-01-0007. Regulations Pertaining to Crab Catch Limits.

Statutory Authority: §§ 28.2-210, 28.2-707 and 28.2-713 of the Code of Virginia.

Effective Dates: February 3, 1995, to March 4, 1995.

Preamble:

*This emergency regulation establishes a daily catch limit and maximum dredge size for the winter crab dredge fishery in Virginia tidal waters. This emergency regulation is promulgated pursuant to the authority contained in §§ 28.2-210, 28.2-707, and 28.2-713 of the Code of Virginia. The effective dates of this emergency regulation are February 3, 1995, to March 4, 1995.*

VR 450-01-0007. Regulations Pertaining to Crab Catch Limits.

§ 1. Purpose.

The purpose of this regulation is to provide for the long-term conservation of the blue crab resource.

§ 2. Catch limit.

During the lawful crab dredge season, no one boat shall take or catch more than 20 barrels of crabs in any one day. Each barrel shall be a regular crab barrel not more than level full.

§ 3. Dredge size.

For the 1994-1995 season, it shall be unlawful for any person to use any single crab dredge that exceeds eight feet in width across the inside mouth of the dredge.

§ 4. Penalty.

A. Possession of crabs in excess of the amounts provided by this regulation shall be prima facie evidence of violation provided, however, that the catch limit imposed by this regulation shall not apply to crab buy boats.

B. As provided by § 28.2-713 of the Code of Virginia, any person violating the provisions of § 2 of this regulation shall be guilty of a Class 1 misdemeanor.

C. As provided in § 28.2-707 of the Code of Virginia, any person violating the provisions of § 3 of this regulation shall be guilty of a Class 3 misdemeanor.

/s/ William A. Pruitt

Commissioner

VA.R. Doc. No. R95-284; Filed February 7, 1995, 11:59 a.m.

\* \* \* \* \*

Title of Regulation: VR 450-01-0012. Pertaining to Dredging for Crabs.

Statutory Authority: § 28.2-210 of the Code of Virginia.

Effective Dates: February 3, 1995, to March 4, 1995.

Preamble:

*This emergency regulation establishes areas of the Chesapeake Bay where crab dredging activities are prohibited. This emergency regulation is promulgated pursuant to the authority contained in § 28.2-210 of the Code of Virginia. This emergency regulation supersedes Virginia Marine Resources Commission Order Number 82-6 made effective November 23, 1982. The effective dates of this regulation are February 3, 1995, to March 4, 1995.*

VR 450-01-0012. Pertaining to Dredging for Crabs.

§ 1. Purpose.

The purpose of this regulation is to establish distinct boundaries on crab dredge harvesting areas within the Chesapeake Bay.

§ 2. Prohibited areas.

A. Except for the provisions listed under subsection B of this section, no dredging for crabs shall be permitted in the areas inshore of a boundary line beginning at the mean low water line at the north end of the westbound span of the Hampton Roads Bridge Tunnel; continuing in an easterly direction along the mean low water line and crossing the mouth of Mill Creek; thence continuing to Old Point Comfort; thence, still following the mean low water line, continuing to Northend Point; thence to Plum Tree Point; thence to buoy "4" at Poquoson River Channel; thence continuing to Tue Marshes Light; thence extending to New Point Comfort Abandoned Light House; thence continuing NNE and crossing the mouth of Horn Harbor to the mean low water line at Beach Point; thence continuing along the mean low water line, crossing the mouth of Winter Harbor; thence continuing to the south point of Rigby Island; thence continuing in an easterly direction to buoy G"1MH"; thence continuing in a northerly direction to "41A"; thence continuing from "41A" to G"1R"; thence continuing to Windmill Point Light; thence to the SE tip of Bluff Point; thence to Great Wicomico Light; thence in a northeasterly direction to buoy "63A"; thence northerly to Smith Point Light; thence continuing to the Maryland/Virginia border on a heading of 337° true.

B. Within the area inshore of the boundary line

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beginning at Great Wicomico Light and extending in a northeasterly direction to buoy "63A," thence continuing north to Smith Point Light and terminating at the Maryland/Virginia border on a heading of 337° true, crab dredging shall be permitted where mean low water depth is 35 feet or greater.

C. No dredging for crabs shall be permitted in the areas above a line beginning at mean low water at the south end of sand spit at Tangier Island, thence 164° true to Tangier light house, thence 230° true to C"1," thence 120° true to bell buoy number R"2," thence 095° true to day marker "2," thence 136° true to the mean low water line Northwest end of Thicket Point.

D. No dredging for crabs shall be permitted in the area inshore of a line on the easterly side of Chesapeake Bay following the mean low water line from Chesconessex Creek to Fisherman Island off Cape Charles, excluding all creeks and inlets; and the mouths of said creeks and inlets shall be designated by a line drawn from headland to headland of said creek or inlet.

### § 3. Penalty.

Pursuant to § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt  
Commissioner

V.A.R. Doc. No. R5-285; Filed February 7, 1995, 11:59 a.m.

\* \* \* \* \*

**Title of Regulation:** VR 450-01-0036. Pertaining to Time Restrictions on Commercial Crabbing.

**Statutory Authority:** § 28.2-210 of the Code of Virginia.

**Effective Dates:** February 3, 1995, to March 4, 1995.

### Preamble:

*This emergency regulation establishes time, season and peeler pot limits for commercial crabbing in Virginia and is promulgated pursuant to authority contained in § 28.2-210 of the Code of Virginia. The effective dates of this emergency regulation are February 3, 1995, to March 4, 1995.*

VR 450-01-0036. Pertaining to Time Restrictions on Commercial Crabbing.

### § 1. Purpose.

*The purpose of this regulation is to allow for*

*conservation of crabs and to improve the enforceability of other laws pertaining to crabbing.*

### § 2. Sunday prohibition.

It shall be unlawful to take or catch crabs for commercial purposes on Sunday. This section shall not apply to the harvest of peeler crabs by crab traps or peeler pots or to the working of floats, pens, or onshore facilities for soft crab shedding operations.

### § 3. Daily time limits.

It shall be unlawful to take or catch crabs for commercial purposes between sunset and three hours before sunrise, provided; however, it shall be unlawful to take crabs by crab dredge, as defined in § 28.2-707 of the Code of Virginia, between sunset and sunrise.

### § 4. Season limits.

*It shall be unlawful for any person to place, set or fish any hard crab pot or peeler crab pot from December 1 through March 31.*

### § 5. Peeler crab pot limits.

*A. From April 1 through June 30, it shall be unlawful for any person to place, set or fish more than 400 peeler crab pots per vessel.*

*B. From July 1 through November 30, it shall be unlawful for any person to place, set or fish more than 400 peeler pots and it shall be unlawful for more than two peeler pot licensees to place, set, or fish peeler pots from the same vessel.*

### § 4. 6. Penalty.

~~As set forth in Pursuant to § 28.2-903 of the Code of Virginia, any person ; firm, or corporation~~ violating any provision of this regulation shall be guilty of a Class 3 misdemeanor , and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor .

/s/ William A. Pruitt  
Commissioner

V.A.R. Doc. No. R95-286; Filed February 7, 1995, 11:59 a.m.

\* \* \* \* \*

**Title of Regulation:** VR 450-01-0041. Pertaining to Crab Catch Limits.

**Statutory Authority:** §§ 28.2-210 and 28.2-713 of the Code of Virginia.

**Effective Dates:** February 3, 1995, to March 4, 1995.

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## Preamble:

This emergency regulation establishes a daily catch limit for the spring crab pot fishery in Virginia tidal waters and is promulgated pursuant to the authority contained in § 28.2-210 and 28.2-713 of the Code of Virginia. The effective dates of this regulation are February 3, 1995, to March 4, 1995.

VR 450-01-0041. Pertaining to Crab Catch Limits.

### § 1. Purpose.

The provisions of this regulation are in response to increased fishing pressure on the crab resource and are in the interest of conservation and the crab industry.

### § 2. Catch limit and season.

A. During the period ~~March 15 to April 1~~ through May 31, inclusive, no boat or vessel shall take or catch by crab pot, or have in possession, more than 51 bushels or 17 barrels of crabs in any one day.

B. In examining a particular boat's catch, if the marine patrol officer finds crabs in excess of the 51 bushel or 17 barrel limit, the quantity of crabs in excess shall be immediately returned to the water by the person who possessed such crabs. The refusal to return the crabs to the water shall constitute a separate violation of this regulation.

### § 3. Penalty.

~~As set forth in~~ Pursuant to § 28.2-713 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt  
Commissioner

V.A.R. Doc. No. R95-287; Filed February 7, 1995, 11:59 a.m.

\* \* \* \* \*

Title of Regulation: VR 450-01-0060. Pertaining to the Use of Crab Traps and Pounds.

Statutory Authority: §§ 28.2-210 and 28.2-701 of the Code of Virginia.

Effective Dates: February 3, 1995, to March 4, 1995.

## Preamble:

This emergency regulation establishes requirements regarding proximity to other crab traps or pounds, removal of gear and poles, mesh size, and cull rings. This emergency regulation is promulgated pursuant to the authority contained in §§ 28.2-210 and 28.2-701 of

the Code of Virginia. Section 28.2-701 specifies that the Virginia Marine Resources Commission shall promulgate regulations governing the use, placement, and maintenance of crab traps and crab pounds. The effective dates of this regulation are February 3, 1995, to March 4, 1995.

VR 450-01-0060. Pertaining to the Use of Crab Traps and Pounds.

### § 1. Purpose.

The purpose of this regulation is to comply with the requirements of § 28.2-701 of the Code of Virginia by establishing regulations that govern the use, placement, and maintenance of crab traps and pounds; to promote conservation of the blue crab resource; and to maintain navigable waterways.

### § 2. Placement of crab traps and crab pounds.

It shall be unlawful to place, set, or use crab traps or crab pounds within 100 yards of any other crab trap or crab pound without respect to whether or not the other crab trap or pound is owned by the same or some other person, firm, corporation or association.

### § 3. Removal of traps, leads, poles, gear.

A. Every owner or user of a crab trap or crab pound shall completely remove traps, leads, wire, poles, and all other related gear from the water not later than December 31 of each year, except that they may leave two poles at each crab trap or crab pound site to facilitate relocation of the traps, lead and poles in the upcoming crab season, except as provided in subsection B below. If the trap site is not licensed and used in any subsequent year the trap owner shall be required to remove all poles from the site.

B. In the Tangier Island vicinity (from the southern tip of Tangier Island north to the Maryland line), it shall be lawful for every owner or user of a crab trap or crab pound to leave poles at crab trap or crab pound stands; provided such poles will be used at said location the following season and not be abandoned.

### § 4. Minimum mesh size.

It shall be unlawful to use a crab trap or crab pound with a head or retention box with a mesh size of less than one inch.

### § 5. Cull rings.

It shall be unlawful for any person to place, set or use any peeler crab trap or pound that does not contain at least four unobstructed cull rings of at least 1-1/2 inches inside diameter. Two such rings shall be located under water at all times in the lower portion of both side panels that are perpendicular to the shoreline and on opposite

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sides of the head or retention box.

## § 5. 6. Penalty.

A. As set forth in § 28.2-701 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 3 misdemeanor.

B. No licenses for crab traps or crab pounds for a subsequent year shall be issued to any person ; ~~corporation or association~~ failing to accomplish such removal as stipulated in § 3 above until the same has been accomplished.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R95-288; Filed February 7, 1995, 11:59 a.m.

\* \* \* \* \*

Title of Regulation: VR 450-01-0093. Pertaining to Crab Pots.

Statutory Authority: § 28.2-210 of the Code of Virginia.

Effective Dates: February 3, 1995, to March 4, 1995.

### Preamble:

*This emergency regulation establishes a requirement for the use of cull rings in crab pots, and is promulgated pursuant to the authority contained in § 28.2-210 of the Code of Virginia. The effective dates of this regulation are February 3, 1995, to March 4, 1995.*

VR 450-01-0093. Pertaining to Crab Pots.

## § 1. Purpose.

The purpose of this regulation is to conserve the blue crab resource by promoting the escape of small crabs from crab pots through the use of cull rings.

## § 2. Cull ring requirements.

A. It shall be unlawful for any person to place, set or fish any crab pot in Virginia's tidal waters which does not contain at least two unobstructed cull rings of size and location within the pot as hereinafter described, except as provided in subsection B of this section. One cull ring shall be at least 2-5/16 inches inside diameter, and the other cull ring shall be at least 2-3/16 inches inside diameter. These cull rings shall be located one each in opposite exterior side panels of the upper chamber of the pot.

B. The required 2-5/16 inches inside diameter cull ring may be obstructed in crab pots set within the crab dredge areas as set forth in VR 450-01-0012, or within Pocomoke or Tangier Sounds.

C. Peeler pots with a mesh size less than 1-1/2 inches shall be exempt from the cull ring requirement.

## § 3. Penalty.

Pursuant to § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R95-289; Filed February 7, 1995, 11:59 a.m.

\* \* \* \* \*

Title of Regulation: VR 450-01-0100. Pertaining to the Hampton Roads and Bayside Eastern Shore Blue Crab Management Areas.

Statutory Authority: § 28.2-210 of the Code of Virginia.

Effective Dates: February 3, 1995, to March 4, 1995.

### Preamble:

*This emergency regulation establishes the Hampton Roads and Bayside Eastern Shore Blue Crab Management Areas and provisions to control the harvest of crabs from these areas. This emergency regulation is promulgated pursuant to the authority contained in § 28.2-210 of the Code of Virginia. The effective dates of this regulation are February 3, 1995, to March 4, 1995.*

VR 450-01-0100. Pertaining to the Hampton Roads and Bayside Eastern Shore Blue Crab Management Areas.

## § 1. Purpose.

The provisions of this regulation are in response to reduced abundance in the blue crab stock and increased fishing pressure on this resource. This regulation promotes conservation of the blue crab resource within the below designated areas of the Chesapeake Bay system.

## § 2. Blue crab management areas defined.

A. The Hampton Roads Blue Crab Management Area shall consist of all tidal waters inshore and upstream of a line formed by the extreme south and north ends of the westbound span of the Hampton Roads Bridge Tunnel.

B. The Bayside Eastern Shore Blue Crab Management Area shall consist of all tidal waters within a line beginning at buoy R"14" on the eastern side of the Chesapeake Channel at the Chesapeake Bay Bridge Tunnel thence continuing northwesterly along the eastern side

# Marine Resources Commission

Chesapeake Channel following the buoy line to buoy R"22," thence continuing in a northeasterly direction and extending through Flashing Light "2" (SW of Old Plantation Creek) to the mean low water line, thence continuing southerly following the mean low water line to its intersection with the Chesapeake Bay Bridge Tunnel, thence following the north side of the Chesapeake Bay Bridge Tunnel to buoy R"14," the point of beginning.

## § 3. Harvest restrictions.

A. It shall be unlawful for any person to dredge for crabs within the Hampton Roads Blue Crab Management Area at any time.

B. It shall be unlawful for any person to conduct commercial crabbing or recreational crab potting within the Bayside Eastern Shore Management Area from June 1 through September 15.

## § 4. Penalty.

Pursuant to § 28.2-903 of the Code of Virginia, any person violating any section of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt  
Commissioner

V.A.R. Doc. No. R95-290; Filed February 7, 1995, 11:59 a.m.

## FINAL REGULATION

**NOTICE:** The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

**Title of Regulation:** VR 450-01-0102. Pertaining to Importation of Fish, Shellfish or Crustacea into Virginia's Waters.

**Statutory Authority:** §§ 28.2-201 and 28.2-825 of the Code of Virginia.

**Effective Date:** February 2, 1995.

### Preamble:

*This regulation establishes the list of approved states, waters, and species as required under § 28.2-825 of the Code of Virginia for the lawful importation of fish, shellfish or crustacea into the Commonwealth with the intent of placing such animals into the waters of the Commonwealth. This regulation is promulgated pursuant to the provisions of § 28.2-825 of the Code of Virginia. It amends and makes permanent the emergency regulation VR 450-01-0102 approved by the*

*Marine Resources Commission on December 20, 1994. The effective date of this regulation is February 2, 1995.*

**Agency Contact:** Copies of the regulation may be obtained from Deborah R. McCalester, Marine Resources Commission, Fisheries Management Division, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2248.

VR 450-01-0102. Pertaining to Importation of Fish, Shellfish or Crustacea into Virginia's Waters.

## § 1. Purpose.

*The purpose of this regulation is to establish the list of approved states, waters and species, and criteria necessary for the importation of fish, shellfish, and crustacea for the purpose of placing such animals into the waters of the Commonwealth.*

## § 2. Definitions.

*The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise.*

*"Shell height" means the straight-line distance from the hinge of the mollusk to its bill.*

*"Shell length" means the longest straight-line distance on the mollusk from edge to edge.*

## § 3. Approved species and criteria for importation.

*A. Pursuant to the provisions of § 28.2-825 of the Code of Virginia, it shall be lawful to import into the Commonwealth, with the intent of placing such animals into the waters of the Commonwealth, any species listed below:*

*1. Any hard clam of the species Mercenaria mercenaria, from the waters of any coastal area or state within the continental United States and which is absent of any known shellfish pathogen.*

*2. Any American oyster shellstock of the species Crassostrea virginica greater than 25mm in shell height from the waters of New England, Mid-Atlantic, or South Atlantic coastal areas or states and which is absent of any known shellfish pathogen.*

*3. Any American oyster hatchery produced seed of the species Crassostrea virginica less than 25mm in shell height from the waters of any coastal area or state within the continental United States and which is absent of any known shellfish pathogen.*

*4. Any bay scallop hatchery produced seed of the species Argopecten irradians less than 25mm in shell height from the waters of any coastal area or state within the continental United States and absent of any*

# Marine Resources Commission

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known shellfish pathogen.

5. Any surf clam hatchery produced seed of the species *Spisula solidissima* less than 25mm in shell length from the waters of any coastal area or state within the continental United States and which is absent of any known shellfish pathogen.

6. Any soft shell clam hatchery produced seed of the species *Mya arenaria* less than 25mm in shell length from the waters of any coastal area or state within the United States which is absent of any known shellfish pathogen.

7. Any pre-molt (peeler) blue crab of the species *Callinectes sapidus* from the waters of the states of New Jersey, Delaware, Maryland, North Carolina, South Carolina, or Georgia.

B. Shipments of any molluscan shellfish specified above, upon entry into the Commonwealth for introduction into the waters of the Commonwealth, shall be accompanied by a certified statement from an approved shellfish pathologist as to the complete absence of known shellfish pathogens in a random sample of 60 individuals from the shipment or population in question which was examined by histological and fluid thioglycollate methods prior to each importation.

C. Shipments of any species under the provisions of this regulation shall be accompanied by documentation of the quantity imported.

D. The provisions of this regulation shall not apply to the importation of any molluscan shellfish from the waters of the Maryland portion of the Chesapeake Bay and its tributaries.

## § 4. Penalty.

As set forth in § 28.2-825 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt  
Commissioner

V.A.R. Doc. No. R95-282; Filed February 2, 1995, 12:05 p.m.

# GENERAL NOTICES/ERRATA

## Symbol Key †

† Indicates entries since last publication of the Virginia Register

## GENERAL NOTICES

### DEPARTMENT OF HEALTH (BOARD OF)

#### † 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 the Governor's Executive Order Number 13(94).

Written comments on this issue should be submitted by Wednesday, March 29, 1995, to Thomas B. Gray, P.E., Office of Water Programs, Room 109, Virginia Department of Health, P.O. Box 2448, Richmond, VA 23218, voice (804) 786-5566; FAX (804) 786-5567.

#### † Waterworks Regulations – 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 who 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 the Governor's Executive Order Number 13(94).

Written comments on this issue should be submitted by Wednesday, March 29, 1995, to Thomas B. Gray, P.E., Office of Water Programs, Room 109, Virginia 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: (804) 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:



## General Notices/Errata

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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

# 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

#### BOARD FOR ACCOUNTANCY

- † April 19, 1995 - 10 a.m. - Open Meeting
  - † April 20, 1995 - 8 a.m. - Open Meeting
- Department of Professional and Occupational Regulation, 3600 West Broad Street, 3rd Floor, Room 395, Richmond, Virginia. ☒

A regular business meeting to review applications and correspondence, conduct review and disposition of enforcement cases, and other routine board business. In addition, at 10 a.m. on Thursday, April 20, 1995, a public hearing will be held on a proposed education change to § 2.1 B 1 a of VR 105-01-2. Upon conclusion of the hearing, the meeting will continue. 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 to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD ☎

- + April 27, 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 board to make case decisions. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8500. 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:** Barbara B. Tinsley, Legal Assistant, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8589 or (804) 367-9753/TDD ☎

## VIRGINIA AGRICULTURAL COUNCIL

- March 27, 1995 - 9 a.m. - Open Meeting
  - March 28, 1995 - 9 a.m. - Open Meeting
- Sheraton Inn Charlottesville, 2350 Seminole Trail, Charlottesville, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to hear and act upon project proposals for financial assistance through the Virginia Agricultural Council. The council will entertain public comment at the close of all other business for a period not to exceed 30 minutes. Any person who needs accommodations in order to participate during the meeting should contact Thomas Yates at least 10 days before the meeting date so that suitable arrangements can be made.

**Contact:** Thomas R. Yates, Assistant Secretary, Virginia Agricultural Council, 1100 Bank St., Suite 203, Richmond, VA 23219, telephone (804) 786-6060.

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Virginia Bright Flue-Cured Tobacco Board

- March 10, 1995 - 10 a.m. - Open Meeting
- Sheldon's Restaurant, Keysville, Virginia. ☒

The board will meet to consider funding proposals for research, promotion, and education projects pertaining to Virginia flue-cured tobacco and other business that may come before the board. Any person who needs any accommodation in order to participate at the

# Calendar of Events

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meeting should contact D. Stanley Duffer at least five 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:** D. Stanley Duffer, Secretary, Virginia Bright Flue-Cured Tobacco Board, P.O. Box 129, Halifax, VA 24558, telephone (804) 572-4568.

## Virginia Dark-Fired Tobacco Board

† **March 17, 1995 - 10 a.m.** – Open Meeting  
Sheldon's Restaurant, Keysville, Virginia. ☒

The board will meet to consider funding proposals for research, promotion, and education projects pertaining to Virginia dark-fired tobacco and other business that may come before the board. Any person who needs any accommodation in order to participate at the meeting should contact D. Stanley Duffer at least five 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:** D. Stanley Duffer, Secretary, Virginia Bright Flue-Cured Tobacco Board, P.O. Box 129, Halifax, VA 24558, telephone (804) 572-4568.

## Virginia Marine Products Board

† **March 7, 1995 - 5:30 p.m.** – Open Meeting  
The Ship's Cabin Restaurant, 4110 East Ocean View Avenue, Norfolk, Virginia. ☒

The board will meet to receive reports from the executive director of the Virginia Marine Products Board on finance, marketing, past and future program planning, publicity/public relations, and old/new business. 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 Shirley Estes at least 5 days before the meeting date so that suitable arrangements can be made.

**Contact:** Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Blvd., Suite B, Newport News, VA 23602, telephone (804) 874-3474.

## 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.

## Pesticide Control Board

† **April 13, 1995 - 9 a.m.** – Open Meeting  
Department of Agriculture and Consumer Services, 1100 Bank Street, Richmond, Virginia. ☒

A meeting to conduct general business and board committee meetings. Portions of the meeting may be held in closed session, pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity at 9 a.m. to comment on any matter not on the Pesticide Control Board's agenda. Any person who needs any accommodation in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting so that suitable arrangements can be made.

**Contact:** Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23209, telephone (804) 371-6558.

## Virginia Soybean Board

† **March 9, 1995 - 9 a.m.** – Open Meeting  
† **March 10, 1995 - 9 a.m.** – Open Meeting  
Williamsburg Hilton and Conference Center, Williamsburg, Virginia. ☒

A meeting to review projects currently underway and to consider programs 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 10 days before the meeting date so that suitable arrangements can be made.

**Contact:** Rosser Cobb, Program Director, Virginia Soybean Board, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

## Virginia Winegrowers Advisory Board

**April 28, 1995 - 10 a.m.** – Open Meeting  
Virginia Cooperative Extension Office, 168 Spotnap Road, Charlottesville, Virginia. ☒ (Interpreter for the deaf provided upon request)

The board will hear grant proposal presentations for funding, hear committee and project reports, and

discuss old and new business. Public comment will be heard following the conclusion of board business. Any person who needs any accommodation in order to participate at the meeting should contact Mary Davis-Barton at least 14 days before the meeting date so that suitable arrangements can be made.

**Contact:** Mary Davis-Barton, Secretary, Virginia Winegrowers Advisory Board, P.O. Box 1163, Richmond, VA 23209, telephone (804) 371-7685.

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

### Board for Interior Designers

**March 23, 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 the department 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, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

### Board for Landscape Architects

**March 16, 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 the department 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, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

### Board for Land Surveyors

**March 9, 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 the department 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, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

## ASAP POLICY BOARD - VALLEY

**† March 13, 1995 - 8:30 a.m. - Open Meeting**  
Augusta County School Board Office, Fishersville, Virginia. ☒

A regular meeting of the local policy board to conduct business pertaining to (i) court referrals; (ii) financial report; (iii) director's report; and (iv) statistical reports.

**Contact:** Rhoda G. York, Executive Director, ASAP Policy Board, Holiday Court, Suite B, Staunton, VA 24401, telephone (703) 886-5616 or (703) 943-4405 (Waynesboro number).

## BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

**March 9, 1995 - 10 a.m. - Open Meeting**  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A regular meeting.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

## BOARD FOR BARBERS

**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 ☎

# Calendar of Events

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**April 3, 1995 - 9 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 the department 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:** 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 ☎

## STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **March 17, 1995 - 10 a.m. – Open Meeting**  
The 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 Board of Housing and Community Development. The board issues interpretations and formalizes recommendations to the Board of Housing and Community Development concerning future changes to the regulations. Public comments will be received.

**Contact:** Vernon W. Hodge, Staff, Technical Review Board, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TDD ☎

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **March 16, 1995 - 10 a.m. – Open Meeting**  
Department of Social Services, 730 East Broad Street, Conference Room 1, Lower Level, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be taken early in the meeting. A tentative agenda will be available by March 3, 1995, from the Chesapeake Bay Local Assistance Department.

**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 ☎

## CHILD DAY-CARE COUNCIL

† **March 9, 1995 - 9:30 a.m. – Open Meeting**  
Department of Social Services, Theater Row Building, 730 East Broad Street, Lower Level, Conference Room 1,

Richmond, Virginia. (Interpreter for the deaf provided upon request)

The council will meet to discuss issues and concerns that impact child day centers, camps, school age programs, and preschool/nursery schools. A public comment period will be at noon. Please call ahead of time for possible changes in meeting time.

**Contact:** Richard Martin, Division of Management and Customer Service, Department of Social Services, Theater Row Bldg., 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1825.

## STATE BOARD FOR COMMUNITY COLLEGES

**March 15, 1995 - 2:30 p.m. – Open Meeting**  
Virginia Community College System, James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

State board committee meetings.

**Contact:** Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, James Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

**March 16, 1995 - 9 a.m. – Open Meeting**  
Virginia Community College System, James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

A regularly scheduled state board meeting.

**Contact:** Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, James Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

## COMPENSATION BOARD

**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

† **March 23, 1995 - 7 p.m. – Open Meeting**  
Elydale Elementary School, Route 58, Lee County, Virginia.

A public information meeting on the master planning of the Karlan site in Lee County.

**Contact:** John Davy, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-1119, FAX (804) 371-7899 or (804) 786-2121/TDD ☎

## Catoctin Creek Scenic River Advisory Board

† **March 24, 1995 - 2 p.m.** – Open Meeting  
Waterford Foundation, next to Old Tin Shop, Waterford, 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 ☎

## Falls of the James Scenic River Advisory Board

† **March 16, 1995 - Noon** – Open Meeting  
† **April 20, 1995 - Noon** – Open Meeting  
City Hall, 5th Floor, Planning Commission Conference Room, Richmond, Virginia.

A meeting to review river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

## BOARD FOR CONTRACTORS

### Applications Review Committee

† **March 21, 1995 - 10 a.m.** – Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regularly scheduled meeting of the committee to review applications with convictions or complaints for Class A, B, and C contractor's licenses.

**Contact:** Elizabeth Y. Kirksey, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785.

### 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

† **March 15, 1995 - 10 a.m.** – Open Meeting  
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☎

A meeting to discuss matters as they 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

† **March 15, 1995 - 8:30 a.m.** – Open Meeting  
Department of Corrections, 6900 Atmore Drive, Board Room, 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

† **March 14, 1995 - 1 p.m.** – Open Meeting  
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☎

A meeting to discuss correctional services issues 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.

## BOARD FOR COSMETOLOGY

† **March 6, 1995 - 10 a.m.** – Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

# Calendar of Events

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† **March 8, 1995 - 10 a.m. – Open Meeting**  
Lynchburg Circuit Court, 900 Court Street, Lynchburg, Virginia.

A meeting to conduct an informal fact-finding conference pursuant to the Administrative Process Act in order for the Board for Cosmetology to make a case decision. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8500. The department fully complies with the Americans with Disabilities Act.

**Contact:** Barbara B. Tinsley, Legal Assistant, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8589 or (804) 367-9753/TDD ☎

**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 CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

**May 3, 1995 - 9 a.m. – Public Hearing**  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

**April 21, 1995 – Public 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 Criminal Justice Services Board intends to amend regulations entitled: **VR 240-03-2. Regulations Relating to Private Security Services.** The proposed amendments to the regulations incorporate 1994 legislative changes to the Code of Virginia affecting private security services. House Bill 393 required the Criminal Justice Services Board to establish a regulation for the registration of a personal protection specialist (bodyguard) by July 1, 1995. Similarly, House Bill 395 required the board to promulgate a regulation for the licensure of electronic security businesses and the registration of such electronic security business employees as an "alarm respondent," "central station dispatcher," "electronic security sales representative," or "electronic security technician." As a result, the board must amend its

private security services regulations to reflect these mandates.

Statutory Authority: § 9-182 of the Code of Virginia.

Public comments may be submitted through April 21, 1995, to Lex T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

**Contact:** Leon D. Baker, Jr., Chief, Private Security Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4700.

## 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.

**March 27, 1995 - 7 p.m. – Public Hearing**  
Abingdon High School, 705 Thompson Drive, Abingdon, Virginia. ☒ (Interpreter for the deaf provided upon request)

**March 27, 1995 - 7 p.m. – Public Hearing**  
Maury High School, 322 Shirley Avenue, Norfolk, Virginia. ☒ (Interpreter for the deaf provided upon request)

**March 28, 1995 - 7 p.m. – Public Hearing**  
John M. Langston Middle School, 228 Cleveland Street, Danville, Virginia. ☒ (Interpreter for the deaf provided upon request)

**March 28, 1995 - 7 p.m. – Public Hearing**  
Spotswood High School, Penn Laid, Virginia. ☒ (Interpreter for the deaf provided upon request)

**March 29, 1995 - 7 p.m. – Public Hearing**  
Falls Church High School, 7521 Jaguar Trail, Falls Church, Virginia. ☒ (Interpreter for the deaf provided upon request)

**March 29, 1995 - 7 p.m. – Public Hearing**  
Prince Edward High School, Route 5, Box 680, Farmville,

# Calendar of Events

Virginia. ☒ (Interpreter for the deaf provided upon request)

**March 30, 1995 - 7 p.m. – Public Hearing**  
Huguenot High School, 7945 Forest Hill Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

**March 30, 1995 - 7 p.m. – Public Hearing**  
William Byrd High School, 2902 Washington Avenue, Vinton, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **April 6, 1995 - 7 p.m. – Public Hearing**  
Nandua High School, 26350 Lankford Highway, Onley, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **April 6, 1995 - 7 p.m. – Public Hearing**  
Loudoun County High School, 415 Dry Mill Road, S.W., Leesburg, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Board of Education is in the process of revising the Standards of Learning in Mathematics, Science, Social Studies, and English/Language Arts. The purpose of this hearing is to receive comments from the public on the proposed revisions.

**Contact:** James E. Laws, Jr., Administrative Assistant for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2540 or toll-free 1-800-292-3820.

† **April 10, 1995 - 7 p.m. – Public Hearing**  
Lebanon High School, Lebanon, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **April 11, 1995 - 7 p.m. – Public Hearing**  
George Mason High School, 7124 Leesburg Pike, Falls Church, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **April 11, 1995 - 7 p.m. – Public Hearing**  
Patrick Henry High School, 2102 Grandin Road, S.W., Roanoke, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **April 12, 1995 - 7 p.m. – Public Hearing**  
Warwick High School, 51 Copeland Lane, Newport News, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **April 12, 1995 - 7 p.m. – Public Hearing**  
Atlee High School, 10301 Atlee Station Road, Mechanicsville, Virginia. ☒ (Interpreter for the deaf provided upon request)

The board wishes to receive comments from the public, teachers, and local school boards on the proposed guidelines on constitutional rights and

restrictions on prayer and other religious expressions in public schools. Copies of the proposed guidelines are available upon request. Those wishing to speak at the public meeting are welcome to provide copies of their remarks. Speakers will be asked to limit their oral remarks to a maximum of three minutes each.

**Contact:** Margaret N. Roberts, Director of Community Regulations, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2775, FAX (804) 225-2053 or toll-free 1-800-422-1098/TDD ☎

## LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF ALEXANDRIA

**March 8, 1995 - 6 p.m. – Open Meeting**  
Potomac Electric Power Company, 1400 North Royal Street, Alexandria, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting with committee members and facility emergency coordinators to conduct business in accordance with SARA Title III, Emergency Planning and Community Right-to-Know Act of 1986.

**Contact:** Charles McRorie, Emergency Preparedness Coordinator, P.O. Box 178, Alexandria, VA 22313, telephone (703) 838-3825 or (703) 838-5056/TDD ☎

## LOCAL EMERGENCY PLANNING COMMITTEE - ARLINGTON COUNTY/CITY OF FALLS CHURCH/WASHINGTON NATIONAL AIRPORT

**April 11, 1995 - 5:30 p.m. – Open Meeting**  
Arlington County Fire Station #1, 500 South Glebe Road, Arlington, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting to conduct general business.

**Contact:** Michael Kilby, Captain, Hazardous Materials Coordinator, 1020 N. Hudson St., Arlington, VA 22204, telephone (703) 358-4652 or (703) 358-4644, FAX (703) 358-4655.

## LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG

† **March 14, 1995 - 3 p.m. – Open Meeting**  
Montgomery County Courthouse, Main and Franklin Streets, 3rd Floor, Board of Supervisors Room, Christiansburg, Virginia. ☒

A meeting to discuss progress of disaster exercise subcommittee for Spring 1995 and to set a tentative drill date. Also, an update on LEPC membership.

**Contact:** Vincent D. Stover, Secretary, New River Valley



# Calendar of Events

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Planning District Commission, P.O. Box 3726, Radford, VA 24143, telephone (703) 639-9313 or FAX (703) 831-6093.

## 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

† **March 9, 1995 - 7 p.m. - Public Hearing**  
Twin Springs High School, Auditorium, Nickelsville, Virginia.

On behalf of the State Air Pollution Control Board, the Department of Environmental Quality will conduct a public hearing to receive comments on a draft permit and consider an application for Louisiana-Pacific Corporation to modify and operate an oriented strand board manufacturing facility in Dungannon, Virginia.

**Contact:** Michael D. Overstreet, Regional Director, Department of Environmental Quality, P.O. Box 1190, 121 Russell Rd., Abingdon, VA 24212, telephone (703) 676-5582.

### Advisory Committee on Notification Process to Private Property Owners of Potential Exceptional Waters Designations

**March 23, 1995 - 11 a.m. - Open Meeting**  
**March 23, 1995 - 7 p.m. - Open Meeting**  
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Executive Conference Room, Richmond, Virginia. ☒

**March 25, 1995 - 11 a.m. - Open Meeting**  
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Training Room, Richmond, Virginia. ☒

The department is establishing an advisory committee to assist Department of Environmental Quality staff in developing criteria for assuring that all affected private property owners are informed of potential exceptional waters designations and their impact on the use of private property. Meeting dates are not firm and are subject to change if weather conditions prevent travel on these dates. Persons interested in attending the meetings of this committee should confirm the date with Jean W. Gregory.

**Contact:** Jean W. Gregory, Environmental Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4113.

## VIRGINIA MUSEUM OF FINE ARTS

### Collections Committee

† **March 13, 1995 - 11 a.m. - Open Meeting**  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia. ☒

A regularly scheduled meeting to discuss purchases of art works, gifts and loans. Public comment will not be received at the meeting.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

### Finance Committee

† **March 16, 1995 - 11:15 a.m. - Open Meeting**  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia. ☒

A regularly scheduled meeting to review the budget. Public comment will not be received.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

### Nominating Committee

† **March 8, 1995 - 12:30 p.m. - Closed Meeting**  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia. ☒

A meeting to consider candidates for 1995-96 Board of Trustees. The meeting will be held in closed session. Public comment will not be received.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

### Board of Trustees

† **March 16, 1995 - Noon - Open Meeting**  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. ☒

A bi-monthly meeting of the full Board of Trustees to discuss committee and staff reports, budget review, and approval of art acquisitions. Public comment will not be received.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond

# Calendar of Events

VA 23221-2466, telephone (804) 367-0553.

## BOARD OF FORESTRY

**March 16, 1995 - 9 a.m.** – Open Meeting  
Shelton Training Center, Garland Gray Forestry Center,  
19127 Sandy Hill Road, Courtland, Virginia. ☒

A joint meeting with the Reforestation Board will be held from 9 to 10 a.m., and there will be a Board of Forestry workshop from 10 a.m. to 3 p.m.

**Contact:** Barbara A. Worrell, Administrative Staff Specialist, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555, FAX (804) 296-2369 or (804) 977-6555/TDD ☎

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **March 8, 1995 - 9 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Richmond, Virginia.

A general board meeting and formal administrative hearing. Public comment will be received at the beginning of the meeting.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907.

## Examination Committee

† **March 7, 1995 - 1 p.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
Richmond, Virginia.

The committee will meet to discuss the examination. Public comments will be considered regarding examination, and the committee will continue the Request for Proposal process.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907.

## Legislative Committee

† **March 7, 1995 - 3 p.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
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., 4th

Floor, Richmond, VA 23230-1717, telephone (804) 662-9907.

## 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.

## GEORGE MASON UNIVERSITY

### Board of Visitors

**March 22, 1995 - 3:30 p.m.** – Open Meeting  
George Mason University, Arlington Campus, 3401 North  
Fairfax Avenue, Professional Center, Arlington, Virginia.

A regular meeting of the board to hear reports of the standing committees of the board, and act on those recommendations presented by the standing committees. An agenda will be available seven days prior to the board meeting for those individuals or organizations who request it. The Student Affairs Committee will meet at 6:30 p.m. on March 21, 1995, Fairfax Campus, Mason Hall.

**Contact:** Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701 or FAX (703) 993-8707.

## DEPARTMENT OF HEALTH

### Marina Regulations Advisory Committee

**March 10, 1995 - 10:30 a.m.** – Open Meeting  
Department of Health, 1500 East Main Street, Room 109,  
Richmond, Virginia. ☒

A meeting to discuss issues related to the Virginia Sanitary Regulations for Marinas and Boat Moorings.

**Contact:** A.F. Golding, Marina Supervisor, Department of Health, Division of Wastewater Engineering, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1761 or FAX

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(804) 786-5567.

## Commissioner's Waterworks Advisory Committee

† **March 16, 1995 - 10 a.m.** – Open Meeting  
Danville Field Office, 1347 Piney Forest Road, Danville, Virginia.

A general business meeting. The committee meets the third Thursday of odd months at various locations around the state. The schedule is as follows: March 18, 1995, and July 20, 1995. Locations will be announced.

**Contact:** Thomas B. Gray, P.E., Special Projects Manager, Department of Health, Division of Water Supply Engineering, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-5566.

## STATE BOARD OF HEALTH

† **March 30, 1995 - 10 a.m.** – Open Meeting  
Windmill Point, Whitestone, Virginia. ☒ (Interpreter for the deaf provided upon request)

A work session and retreat. There will be a reception beginning at 6:30 p.m., followed by an informal dinner at 7 p.m.

**Contact:** Paul W. Matthias, Office of the Commissioner, Department of Health, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

† **March 31, 1995 - 9 a.m.** – Open Meeting  
Windmill Point, Whitestone, Virginia. ☒ (Interpreter for the deaf provided upon request)

A business meeting of the board.

**Contact:** Paul W. Matthias, Office of the Commissioner, Department of Health, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **March 28, 1995 - 9:30 a.m.** – Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, 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.** – CANCELLED  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The meeting to conduct a Cut Score Study for the hearing aid specialist written examination has been cancelled.

**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 ☒

## HEMOPHILIA ADVISORY COMMITTEE

† **April 3, 1995 - 9 a.m.** – Open Meeting  
Children's Hospital, 2924 Brook Road, Dining/Conference Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The board is composed of seven members serving a term of four years. Membership includes one representative each from hospitals, medical schools, blood banks, voluntary agencies interested in hemophilia, local public health agencies, medical specialists in hemophilia, and the general office (§ 32.1-89 of the Code of Virginia). The Advisory Board consults with the State Board of Health regarding programs serving persons suffering from hemophilia and other related bleeding diseases. The board meets annually to discuss budget status, developments and future trends in blood products; update on impact of patient insurance program; plan for future developments in the hemophilia program; plan for treatment and management of hemophilia patients who are HIV-positive or suffering from Acute Immune Deficiency Syndrome.

**Contact:** Pamela G. Plaster, R.N., Hemophilia Nurse Coordinator, Division of Children's Specialty Services, Box 461, MCV Station, Richmond, VA 23298-0461, telephone (804) 786-3306.

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**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) 786-3306.

VA 23219, telephone (804) 225-2639.

toll-free 1-800-552-5019 TDD and Voice, or (804) 662-9040/TDD ☎

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**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

† **March 20, 1995 - 1 p.m. - Open Meeting**  
Jefferson Hotel, Franklin at Adams Streets, Richmond,  
Virginia. ☎

† **March 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.

## STATEWIDE INDEPENDENT LIVING COUNCIL

† **April 4, 1995 - 10 a.m. - Open Meeting**  
Blue Ridge Independent Living Center, 1502-D Williamson  
Road, N.E., Roanoke, Virginia. ☎ (Interpreter for the deaf  
provided upon request)

A meeting to conduct regular quarterly business.

**Contact:** Catherine Northan, Chairperson, or Kathy  
Hayfield, SILC Staff, Department of Rehabilitative Services,  
004 Franklin Farms Dr., Richmond, VA 23288, telephone  
(804) 662-7134 (Hayfield), (804) 850-5922 (Northan),

## 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.

## DEPARTMENT OF LABOR AND INDUSTRY

### Apprenticeship Council

† **March 16, 1995 - 10 a.m. - Open Meeting**  
Richmond Technical Center, 2020 Westwood Avenue, Room  
201, Richmond, Virginia. ☎

A regular meeting of the council. Items on the agenda  
will include regulatory revision.

**Contact:** R.S. Baumgardner, Director, Department of Labor  
and Industry, 13 S. 13th St., Richmond, VA 23219,  
telephone (804) 786-2382.

## 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,

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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.

## VLIN Task Force

**March 6, 1995 - 10 a.m. – Open Meeting**  
Library of Virginia, 11th Street at Capitol Square, Supreme Court Room, 3rd Floor, Richmond, Virginia. ☒

A meeting to discuss strategic directions for the development of the Virginia Library and Information Network.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## STATE COUNCIL ON LOCAL DEBT

**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 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 ☎

## LONGWOOD COLLEGE

### Executive Committee

† **March 16, 1995 - 2 p.m. – Open Meeting**  
411 East Franklin Street, Suite 600, Richmond, Virginia. ☎

A meeting to conduct routine business of the Board of Visitors Executive Committee.

**Contact:** William F. Dorrill, President, Longwood College,

201 High St., Farmville, VA 23901, telephone (804) 395-2001.

## 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 ☎

\* \* \* \* \*

† **April 19, 1995 - 10 a.m. – Public Hearing**  
The Jackson Center, 501 North Second Street, First Floor  
Board Room, Richmond, Virginia.

† **May 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 Virginia Manufactured Housing Board intends to amend regulations entitled: **VR 449-01-02. Manufactured Housing Licensing and Transaction Recovery Fund Regulations.** The proposed amendments to the regulations incorporate the legislative changes adopted by the 1994 General Assembly in House Bill 1172. The legislative amendments require retail manufactured home dealers and brokers located outside of the Commonwealth to be licensed by the Manufactured Housing Board if those dealers or brokers are selling homes to buyers in Virginia. House Bill 1172 amendments also add salespersons working for licensed brokers and manufacturers to the list of regulators that must be licensed and extend the coverage and protection of the recovery fund to persons other than the buyer of the home. The license fee schedule is being amended to reduce the license fees for smaller dealers and brokers as well as the renewal license fees for manufacturers. Several of the amendments, not required by the legislative action, are proposed for clarity of intent and to avoid unnecessary restrictions on regulators.

Statutory Authority: § 36-85.18 of the Code of Virginia.

**Contact:** Curtis L. McIver, Associate Director, Manufactured Housing Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7160.

# Calendar of Events

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## MARINE RESOURCES COMMISSION

† **March 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

† **April 18, 1995 - 10 a.m.** – Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia. ☒

A meeting to discuss medical assistance services and to take action on issues pertinent to the board.

**Contact:** Patricia Sykes, Policy Analyst, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† **April 5, 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 Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-01-53, VR 460-02-4.1710, and VR 460-02-4.1730. OBRA '93 Estate Recoveries.** The purpose of this action is to amend the plan for medical assistance concerning estate recoveries consistent with the requirements of OBRA 93, § 13612 and §§ 32.1-326.1 and 32.1-327 of the Code of Virginia. The process of recovering funds when they have been expended for persons who had their own resources, but did not use them for their own medical care,

returns general fund dollars to the Commonwealth.

Sections 32.1-326.1 and 32.1-327 of the Code of Virginia provide for the recovery, by the Title XIX agency, of expenditures for certain services from the estates of recipients. The Omnibus Budget Reconciliation Act of 1993 § 13612 (OBRA '93) permitted the recovery of Title XIX expended funds from the estates of individuals for all Medicaid covered services. The inclusion of states' estate recovery policies in their state plans for medical assistance was required by the cited OBRA section. Since 1984, DMAS has exercised its authority under state law and recovered expenditures for all Medicaid covered services. The fact that the new federal law makes recovery of institutional payments mandatory, but this degree of recovery an option for states lacking similar state authority, is what causes this regulatory action to be subject to the Article 2 requirements of the APA.

DMAS' initial proposed regulations were published in the July 25, 1994, Virginia Register of Regulations for their public comment period from July 25 through September 23, 1994. Comments were received from two legal aid offices and from the Virginia Poverty Law Center, Inc. DMAS' review and consideration of the received comments indicated that there was considerable confusion and misunderstanding of the commenters' parts as to the substance of the regulatory package. In large measure, it is believed that the misunderstanding is due to mingling of two different types of policy statements on the preprinted pages issued by the Health Care Financing Administration (HCFA). In light of this assessment, DMAS has, with HCFA approval, slightly modified the preprinted pages so as to separate the previously mingled policies on liens on states, incorporating the legal aid comments where they pertained to estate recoveries, and is repropounding for an additional 30 days of comment this revised proposed regulation.

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

Written comments may be submitted until April 5, 1995, to Jesse Garland, Director, Fiscal Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria Simmons or Roberta Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

\* \* \* \* \*

**April 21, 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 Department of Medical Assistance Services intends to amend

regulations entitled: **VR 460-03-4.1940:1. Nursing Home Payment System (Smaller Nursing Facility Indirect Ceiling Adjustment)**. The purpose of this proposal is to comply with the 1994 Virginia Acts of Assembly which appropriated funds for use in increasing the indirect patient care operating per diem ceiling for small nursing facilities.

Under current DMAS policy, the indirect patient care operating cost ceiling is adjusted only to reflect geographical peer groups and is not modified to recognize any differences in bed size of facilities. The Virginia Health Care Association (VHCA) and the Joint Legislative Audit and Review Commission (JLARC) have recommended that DMAS adjust reimbursement to nursing facilities to reflect the relatively higher indirect operating costs incurred in operating a smaller facility. Based upon information from these organization, the 1994 General Assembly appropriated funds for this purpose and directed DMAS to work with the VHCA to develop an appropriate methodology.

For the purposes of this regulatory action, both DMAS and the nursing home industry have agreed that a smaller nursing facility is one with 90 or fewer beds. Effective July 1, 1995, existing indirect peer group ceilings of smaller nursing facilities will be adjusted by the predetermined amount identified in the regulation. In subsequent fiscal years, the facilities' adjusted ceilings will be increased according to a formula reflecting the increase in cost due to inflation.

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

Public comments may be submitted through April 21, 1995, to Scott Crawford, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria Simmons or Roberta Jonas, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

## BOARD OF MEDICINE

**March 16, 1995 - 9:30 a.m. - Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

**March 24, 1995 - 9:30 a.m. - Open Meeting**  
Holiday Inn-Downtown, 814 Capitol Landing Road, Williamsburg. ☒

The Informal Conference Committee composed of three members of the board will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The

committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **March 23, 1995 - 10 a.m. - Public Hearing**  
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A public hearing to receive comments on the Virginia Substance Abuse Prevention and Treatment Block Grant application for Federal Fiscal Year 1995. Copies of this application are available for review at the Office of the Director of Planning and Policy, James Madison Building, 8th Floor, Richmond, Virginia, and at each community services board office. Comments may be made at the hearing or in writing no later than March 23, 1995, to the Office of the Commissioner, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, Virginia 23214. Persons wishing to make a presentation may contact Sterling Deal. Copies of oral statements should be filed at the time of the hearing.

**Contact:** Sterling Deal, SA Planner, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3906 or (804) 371-8977/TDD ☎

## State Human Rights Committee

**March 10, 1995 - 9 a.m. - Open Meeting**  
Valley CSB, 110 West Washington Street, Basement Conference Room, Staunton, Virginia.

A regular meeting to discuss business relating to human rights issues. Agenda items are listed for the meeting.

**Contact:** Elsie D. Little, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988 or (804) 371-8977/TDD ☎

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

**March 26, 1995 - 2 p.m. - Open Meeting**  
Central State Hospital, Petersburg, Virginia. ☒



# Calendar of Events

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**March 27, 1995 - 9 a.m. – Open Meeting**  
Central State Hospital, Petersburg, Virginia. ☒

A regular monthly meeting. Agenda to be published on March 15, 1995. Agenda can be obtained by calling Jane Helfrich.

Sunday	Committee meetings	2 p.m.
	Informal session	4 p.m.
Monday	Informal session	9 a.m.

**Contact:** Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-7945.

## BOARD OF NURSING

† **March 27, 1995 - 9 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Two special conference committees will conduct informal conferences in the morning. A panel of the Board of Nursing will conduct formal hearings in the afternoon. Public comment will not be received.

**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 ☎

† **March 28, 1995 - 9 a.m. – Open Meeting**  
† **March 29, 1995 - 9 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting of the board to consider matters relating to nursing education programs, discipline of licensees, licensure by examination, and other matters under the jurisdiction of the board. The board will consider a report of the comprehensive review of the Regulations for Prescriptive Authority of Nurse Practitioners at 1 p.m. on March 28, 1995. Public comment will be received during an open forum beginning at 11 a.m. on March 28, 1995.

**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 ☎

† **March 30, 1995 - 8:30 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A panel of the board will conduct formal hearings. If the agenda for the panel is not filled with formal hearings, two special conference committees will conduct informal conferences as time permits. Public comment will not be received.

**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 ☎

## BOARD OF OPTOMETRY

† **March 15, 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)

Informal conference meetings. 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 ☎

† **March 15, 1995 - 1 p.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A joint meeting of the Board of Optometry and the Board for Opticians, with representatives from the Board of Pharmacy and the Board of Medicine, will be held to discuss contact lens prescribing. 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, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

† **March 16, 1995 - 8 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order Fifteen(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulation: VR 510-01-1, Regulations of the Virginia Board of Optometry. This regulation will be reviewed to ensure that (i) it is essential to protect the health and safety of the citizens necessary for the performance of an important government function; (ii) it is mandated or authorized by law; (iii) it offers the least burdensome alternative and most reasonable solution; and (iv) it is clearly written and easily understandable. Written comment may be sent to the board until May 7, 1995.

# Calendar of Events

**Contact:** Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

**March 16, 1995 - 8 a.m. – Public Hearing**

Department of Health Professions, 6606 West Broad Street, 5th Floor Conference Room, Richmond, Virginia.

**April 21, 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 Optometry intends to amend regulations entitled: **VR 510-01-1. Regulations of the Board of Optometry.** The purpose of the proposed amendments are to (i) remove defunct public participation guidelines; (ii) establish provisions for licensure by endorsement; (iii) reduce fees; and (iv) establish specifications for a complete contact lens prescription.

Statutory Authority: §§ 54.1-103, 54.1-2400 and 54.1-3200 et seq. of the Code of Virginia.

**Contact:** Elizabeth Carter, Executive Director, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 62-7197/TDD ☎

## VIRGINIA OUTDOORS FOUNDATION

† **March 23, 1995 - 10 a.m. – Open Meeting**

James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A general business meeting. Agenda is available upon request. Public comment will be received.

**Contact:** Virginia E. McConnell, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Richmond, VA 23219, telephone (804) 225-2147.

## BOARD OF PHARMACY

† **March 21, 1995 - 9 a.m. – Open Meeting**

Department of Health Professions, 6606 West Broad Street, Conference Room 1, Richmond, Virginia.

Informal conferences. Public comments will not be received.

**Contact:** Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

## VIRGINIA POLLUTION PREVENTION ADVISORY COMMITTEE

† **March 24, 1995 - 1 p.m. – Open Meeting**

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ☒

The committee will hold its quarterly meeting. The Advisory Committee has been established to assist the Department of Environmental Quality in its implementation of voluntary pollution prevention technical assistance throughout the Commonwealth.

**Contact:** Sharon K. Baxter, Pollution Prevention Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4344 or (804) 762-4021/TDD ☎

## POLYGRAPH EXAMINERS ADVISORY BOARD

**March 28, 1995 - 10 a.m. – Open Meeting**

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☒

The board will meet to review new enforcement procedures, administer the polygraph examiners licensing examination to eligible polygraph examiner interns, and to consider other matters which may require 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 to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Polygraph Examiners Board, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD ☎

## PREVENTION, PROMOTION ADVISORY COUNCIL

† **April 20, 1995 - 10 a.m. – Open Meeting**

Henrico Area Mental Health and Mental Retardation Services Board, 10299 Woodman Road, Conference Room B, Glen Allen, Virginia. ☒

A quarterly business meeting.

**Contact:** Hope Richardson, Program Assistant, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., 10th Floor, Richmond, VA 23219, telephone (804) 786-1530.

# Calendar of Events

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## BOARD OF PROFESSIONAL COUNSELORS

### Advisory Board on Rehabilitation Providers

**March 10, 1995 - 9 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street,  
Conference Room 3, Richmond, Virginia.

A meeting to consider education and experience requirements for the certification of rehabilitation providers.

**Contact:** Janet Delorme, Research Assistant, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9575.

## 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) 367-9142.

## BOARD OF PSYCHOLOGY

**March 28, 1995 - 10 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street,  
Richmond, Virginia. ☒

The Board of Psychology will convene a formal hearing regarding the credentials of an applicant. Public comment will not be received.

**Contact:** Kelli Moss, Administrative Assistant, or Evelyn Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913.

**March 28, 1995 - 11 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street,  
Conference Room 1, Richmond, Virginia. ☒

The Board of Psychology will convene to discuss the recommendations made by the Task Force for the Study of Dual Licensure, and to conduct other board business. Public comment will be received.

**Contact:** Kelli Moss, Administrative Assistant, or Evelyn Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913.

## Advisory Committee on Certified Practices

**March 9, 1995 - 10 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 3, Richmond, Virginia.

A meeting to consider standards of practice, and education and experience requirements for the certification of sex offender treatment providers.

**Contact:** Janet Delorme, Research Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575.

## Examination Committee

**March 24, 1995 - 10:30 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street,  
Richmond, Virginia.

The Examination Committee will convene to conduct general committee business. Public comment will not be received.

**Contact:** Kelli Moss, Administrative Assistant, or Evelyn Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913.

## REAL ESTATE APPRAISER BOARD

### NOTE: CHANGE IN MEETING TIME

**March 7, 1995 - 9 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 ☎

† **March 15, 1995 - 10 a.m. – Open Meeting**  
Mason District Governmental Center, 6507 Columbia Pike,  
Mason Conference Room, Annandale, Virginia.

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the Real Estate Appraiser Board to make decisions. Also, a meeting in regard to the Real Estate Appraiser Board v. Samuel A. Cole, File Number 94-01305.

**Contact:** Stacie G. Camden, Legal Assistant, Real Estate

Appraiser Board, 3600 West Broad St., Richmond, VA 23230, telephone (804) 367-2393.

† **March 21, 1995 - 10 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 Appraiser Board to make decisions. Also, a meeting in regard to the Real Estate Appraiser Board v. John M. Foster, File Number 94-02099.

**Contact:** Stacie G. Camden, Legal Assistant, Real Estate Appraiser Board, 3600 West Broad St., Richmond, VA 23230, telephone (804) 367-2393.

† **March 22, 1995 - 9:30 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 Appraiser Board to make decisions. Also, a meeting in regard to the Real Estate Appraiser Board v. John A. Ruff, File Number 94-01536; and Jacqueline B. Green, File Number 94-01072.

**Contact:** Stacie G. Camden, Legal Assistant, Real Estate Appraiser Board, 3600 West Broad St., Richmond, VA 23230, telephone (804) 367-2393.

## REAL ESTATE BOARD

† **March 21, 1995 - 10 a.m.** – Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct a formal hearing in regard to the Real Estate Board v. Larry J. Timbrook, pursuant to the Administrative Process Act in order for the Real Estate Board to make a case decision. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8500. 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 for consideration of your request.

**Contact:** Barbara B. Tinsley, Legal Assistant, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8589 or (804) 367-9753/TDD ☒

## VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

† **March 9, 1995 - 10 a.m.** – Open Meeting

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Richmond, Virginia.

The council will continue work on developing and monitoring a plan to strengthen Virginia's recycling infrastructure and markets; setting forth strategies primarily designed to improve the supply, quantity, and quality of recyclables; and providing strategies for increasing the demand for recycled products and expanding the capacity of collectors, processors, and manufacturers to handle and use specified recyclable materials. Subcommittee meetings, if appropriate, will be held prior to the general council meeting; subcommittees from 10 to 11:30; council from 11:30 to 12:30; lunch break, if required.

**Contact:** Paddy Katzen, Assistant to Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4488.

## BOARD OF REHABILITATIVE SERVICES

† **March 23, 1995 - 10 a.m.** – Open Meeting

Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to conduct quarterly business.

**Contact:** Dr. Ronald C. Gordon, Commissioner, Board 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. ☒

## Calendar of Events

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**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 ☎

### RICHMOND HOSPITAL AUTHORITY

#### Board of Commissioners

† **March 23, 1995 - 4 p.m. – Open Meeting**  
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor Classroom, Richmond, Virginia. ☒

A monthly board meeting to discuss nursing home operations and related matters.

**Contact:** Marilyn H. West, Chairman, Richmond Hospital Authority, P.O. Box 548, Richmond, VA 23204-0548, telephone (804) 782-1938.

### 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. ☒

† **April 12, 1995 - 10 a.m. – Open Meeting**  
Dumbarton Library, 6800 Staples Mill Road, Richmond, 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

**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. On March 15, there will be a public hearing from 9 a.m. to 10 a.m. to receive public input on the Child Protective Services Program. Speakers are limited to five minutes per speaker.

**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 ☎

### VIRGINIA SOIL AND WATER CONSERVATION BOARD

† **March 16, 1995 - 9 a.m. – Open Meeting**  
Dorey Recreation Center, Darbeytown Road, Varina Room, Richmond, Virginia.

A regular bi-monthly business meeting.

**Contact:** Linda J. Cox, Administrative Assistant, Virginia Soil and Water Conservation Board, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2152.

### SUBCOMMITTEE ON TEEN PREGNANCY PREVENTION

† **April 6, 1995 - 9:30 a.m. – Open Meeting**  
Henrico Area Mental Health and Retardation Services Board, 10299 Woodman Road, Conference Room C, Glen Allen, Virginia. ☒

A quarterly business meeting.

**Contact:** Jeanne McCann, Program Coordinator, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., 10th Floor, Richmond, VA 23219, telephone (804) 786-5793.

### COMMONWEALTH TRANSPORTATION BOARD

† **March 15, 1995 - 2 p.m. – Open Meeting**  
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A work session of the board and the Department

Transportation staff.

**Contact:** Robert E. Martinez, Secretary of Transportation, 1401 E. Broad Street, Richmond, VA 23219, telephone (804) 786-8032.

† **March 16, 1995 - 10 a.m.** – Open Meeting  
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ☒

A monthly meeting of the Commonwealth Transportation Board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

**Contact:** Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

## TREASURY BOARD

**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

† **March 15, 1995 - 9:30 a.m.** – Open Meeting  
Tyler Building, 1300 East Main Street, Richmond, Virginia. ☒

The commission will conduct a regular monthly meeting including a review of its regulations.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

## 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.

† **April 27, 1995 - 10:30 a.m.** – Open Meeting  
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products pertaining to the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Director, Bureau Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **March 14, 1995 - 9 a.m.** – Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct an informal fact-finding conference in regard to the Board for Waterworks and Wastewater Works Operators v. Terry Lynn Rettig, pursuant to the Administrative Process Act in order for the board to make a case decision. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8500. The department fully complies with the Americans with Disabilities Act.

**Contact:** Barbara B. Tinsley, Legal Assistant, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8589 or (804) 367-9753/TDD ☎

† **April 6, 1995 - 10 a.m.** – Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct regulation review and other

# Calendar of Events

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matters which may require board action. A public comment period will be scheduled during the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8590 at least 10 days in advance for consideration. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD ☎

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### March 6

† Cosmetology, Board for  
Library Board  
- VLIN Task Force  
Professional and Occupational Regulation, Board for

#### March 7

† Agriculture and Consumer Services, Department of  
- Virginia Marine Products Board  
† Funeral Directors and Embalmers, Board of  
- Examination Committee  
- Legislative Committee  
Hopewell Industrial Safety Council  
Real Estate Appraiser Board

#### March 8

Agriculture and Consumer Services, Department of  
- Virginia Peanut Board  
† Cosmetology, Board for  
Emergency Planning Committee, Local - City of Alexandria  
† Fine Arts, Virginia Museum of  
- Nominating Committee  
† Funeral Directors and Embalmers  
Sewage Handling and Disposal Appeals Review Board

#### March 9

† Agriculture and Consumer Services, Department of  
- Virginia Soybean Board  
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for  
- Board for Land Surveyors  
Asbestos Licensing and Lead Certification, Board for  
† Child Day-Care Council  
Psychology, Board of  
- Advisory Committee on Certified Practices  
† Recycling Markets Development Council, Virginia

#### March 10

† Agriculture and Consumer Services, Department of  
- Virginia Bright Flue-Cured Tobacco Board  
- Virginia Soybean Board  
Health, Department of  
- Marina Regulations Advisory Committee  
Mental Health, Mental Retardation and Substance Abuse Services, Department of  
- State Human Rights Committee  
Professional Counselors, Board of  
- Advisory Board on Rehabilitation Providers

#### March 12

Barbers, Board for  
Library Board  
- Executive Committee

#### March 13

† ASAP Policy Board, Valley  
Barbers, Board for  
† Fine Arts, Virginia Museum of  
- Collections Committee  
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 14

† Corrections, Board of  
- Correctional Services Committee  
† Emergency Planning Commission, Local - County of Montgomery/Town of Blacksburg  
† Waterworks and Wastewater Works Operators, Board for

#### March 15

Community Colleges, State Board for  
Contractors, Board for  
† Corrections, Board of  
- Administration Committee  
Local Debt, State Council on  
† Optometry, Board of  
† Real Estate Appraiser Board  
Social Services, State Board of  
† Transportation Board, Commonwealth  
Treasury Board  
† Virginia Racing Commission

#### March 16

Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for  
- Board for Landscape Architects  
† Chesapeake Bay Local Assistance Board  
Community Colleges, State Board for  
† Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board

# Calendar of Events

- Virginia Soil and Water Conservation Board

† Fine Arts, Virginia Museum of

- Finance Committee

- Board of Trustees

Forestry, Board of

Game and Inland Fisheries, Board of

† Health, Department of

- Commissioner's Waterworks Advisory Committee

† Labor and Industry, Department of

- Apprenticeship Division

† Longwood College

- Executive Committee

Medicine, Board of

† Optometry, Board of

Social Services, State Board of

† Transportation Board, Commonwealth

## March 17

† Agriculture and Consumer Services, Department of

- Virginia Dark-Fired Tobacco Board

† Building Code Technical Review Board, State

Game and Inland Fisheries, Board of

## March 20

† Housing Development Authority, Virginia

Local Government, Commission on

## March 21

† Contractors, Board for

- Applications Review Committee

Emergency Planning Committee, Local - Gate City

† Housing Development Authority, Virginia

Local Government, Commission on

† Pharmacy, Board of

† Real Estate Appraiser Board

† Real Estate Board

## March 22

George Mason University

- Board of Visitors

Interagency Coordinating Council, Virginia

† Manufactured Housing Board, Virginia

† Real Estate Appraiser Board

## March 23

Architects, Professional Engineers, Land Surveyors and

Landscape Architects, Board for

- Board for Interior Designers

† Conservation and Recreation, Department of

† Outdoors Foundation, Virginia

† Rehabilitative Services, Board of

† Richmond Hospital Authority

- Board of Commissioners

## March 24

† Conservation and Recreation, Department of

- Catoctin Creek Scenic River Advisory Board

Medicine, Board of

† Pollution Prevention Advisory Committee, Virginia

Psychology, Board of

- Examination Committee

## March 26

Mental Health, Mental Retardation and Substance  
Abuse Services Board, State

## March 27

Agricultural Council, Virginia

Cosmetology, Board for

Mental Health, Mental Retardation and Substance

Abuse Services Board, State

† Nursing, Board of

## March 28

Agricultural Council, Virginia

† Health Services Cost Review Council, Virginia

† Marine Resources Commission

† Nursing, Board of

Polygraph Examiners Board

Psychology, Board of

## March 29

† Nursing, Board of

## March 30

Compensation Board

† Health, State Board of

† Nursing, Board of

## March 31

† Health, State Board of

## April 3

Barbers, Board for

† Hemophilia Advisory Committee

## April 4

† Independent Living Council, Statewide

## April 6

† Teen Pregnancy Prevention, Subcommittee on

† Waterworks and Wasteworks Operators, Board for

## April 11

Emergency Planning Committee, Local - Arlington  
County/City of Falls Church/Washington National  
Airport

## April 12

† Sewage Handling and Disposal Appeals Review  
Board

## April 13

† Agriculture and Consumer Services, Department of  
- Pesticide Control Board

## April 18

† Medical Assistance Services, Board of

## April 19

† Accountancy, Board for

## April 20



# Calendar of Events

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- † Accountancy, Board for
- † Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board
- † Prevention, Promotion Advisory Council

**April 27**

- † Accountancy, Board for
- † Voluntary Formulary Board, Virginia

**April 28**

- Agriculture and Consumer Services, Department of  
- Virginia Winegrowers Advisory Board

**April 10**

- † Education, Board of

**April 11**

- † Education, Board of

**April 12**

- † Education, Board of

**April 19**

- Manufactured Housing Board, Virginia

**May 3**

- Criminal Justice Services, Department of

## PUBLIC HEARINGS

**March 8**

- Rehabilitative Services, Department of

**March 9**

- † Environmental Quality, Department of
- Rehabilitative Services, Department of

**March 13**

- Rehabilitative Services, Department of

**March 14**

- Rehabilitative Services, Department of

**March 16**

- Optometry, Board of
- Rehabilitative Services, Department of
- Voluntary Formulary Board, Virginia

**March 20**

- Local Government, Commission on

**March 21**

- Rehabilitative Services, Department of

**March 23**

- † Mental Health, Mental Retardation and Substance  
Abuse Services, Department of

**March 27**

- Education, Department of

**March 28**

- Education, Department of

**March 29**

- Education, Department of

**March 30**

- Education, Department of

**April 6**

- † Education, Board of

